DOCUMENT RESUME

ED 271 620 CE 044 734

AUTHOR	Dwiggins, Donna; And Others
TITLE	Overview of PL 94-142 and IEPs. Teacher Training Module #4. Correctional/Special Education Training Project.
INSTITUTION	Eastern Kentucky Univ., Richmond. Dept. of Correctional Services.
SPONS AGENCY	Office of Special Education and Rehabilitative Services (ED), Washington, DC. Div. of Personnel Preparation.
PUB DATE	86
GRANT	G008303696
NOTE	132p.; For related documents, see CE 044 730-738.
PUB TYPE	Guides - Classroom Use - Materials (For Learner) (051)
EDRS PRICE	MF01/PC06 Plus Postage.
DESCRIPTORS	Adolescents; Adult Education; Competency Based Education; *Correctional Education; *Disabilities; Educational Legislation; Educational Policy; Evaluation Criteria; *Individualized Education Programs; Mainstreaming; Postsecondary Education; *Prisoners; Program Implementation; *Special Education; *Teacher Education; Young Adults
IDENTIFIERS	*Education for All Handicapped Children Act

ABSTRACT

This module, which is one in a series of training packages intended to train educators working with handicapped adolescents and young adults in correctional settings, deals with the Education for All Handicapped Children Act (PL 94-142) and individualized education programs (IEPs). Addressed in the individual sections of the module are the following topics: the major policy considerations in the drafting of PL 94-142 and its provisions, ways of identifying students for special education, the major components and procedures for development of an IEP for students with different types and degrees of disabilities, mainstreaming and least restrictive environments, major considerations in placement decisions, current legal issues in special/correctional education and implementation of PL 94-142 in the correctional setting. The module includes instructional design specifications (module title, competency statement, rationale statement, prerequisites); module objectives; evaluation procedures and criteria, learning activities and alternatives; a content outline; references; handouts; overhead transparency masters; and a training evaluation form. (MN)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION
CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PROJECT DIRECTOR

Dr. Robert B. Rutherford Jr.
Department of Special Education
Arizona State University
Tempe, Arizona 85287
(602) 965-1450

COORDINATOR OF INSERVICE CURRICULUM

Dr. C. Michael Nelson
Department of Special Education
University of Kentucky
Lexington, Kentucky 40506
(606) 257-7925

COORDINATOR OF PRESERVICE CURRICULUM

Dr. Bruce I Wolford
Department of Correctional Services
College of Law Enforcement
Eastern Kentucky University
Richmond, Kentucky 40475-0957
(606) 622-3636

THE PREPARATION OF THESE TEACHER TRAINING MODULES WAS SUPPORTED BY GRANT NUMBER G008303696 FROM THE U.S. DEPARTMENT OF EDUCATION, DIVISION OF PERSONNEL PREPARATION, SPECIAL EDUCATION PROGRAMS. OPINIONS AND POINTS OF VIEW EXPRESSED IN THESE MODULES ARE THOSE OF THE AUTHORS AND DO NOT NECESSARILY REPRESENT THE OFFICIAL POSITION OR POLICIES OF THE U.S. DEPARTMENT OF EDUCATION.

TABLE OF CONTENTS:

I.

II.

III.

IV.

V.

VI.

VII.

VIII.

XI.

X.

XI

Trainer's Guide..... 3

Needs Assessment..... 5

Instructional Design Specifications..... 6

Objectives..... 7

Evaluation Procedures and Criteria..... 8

Learning Activities..... 9

Content Outline..... 18

References..... 43

Overhead Transparencies..... 45

Handouts..... 59

Training Evaluation..... 72

INTRODUCTION

This module is one in a series of training packages that have been designed for working with the handicapped adolescent and young adult in correctional settings. This particular module focuses on the Overview of PL 94-142 and IEPs. The complete set of C/SET Training Modules includes information on the following topics:

Module 1:	Correctional Education/The Criminal Justice System
Module 2:	Characteristics of Exceptional Populations (Juvenile and Adult)
Module 3:	Overview of Special Education
Module 4:	Overview of PL 94-142 and IEPs
Module 5:	Assessment of Exceptional Individuals
Module 6:	Curriculum for Exceptional Individuals
Module 7:	Instructional Methods and Strategies
Module 8:	Vocational Special Education

MODULE COMPONENTS

This module has been designed as a self-contained training package. It contains all the information and materials necessary to conduct training. Additional information and materials can be included at the discretion of the trainer.

Instructional Design Specifications. This cover page includes the following information:

- Module Title
- Competency Statement
- Rationale Statement
- Prerequisites

Module Objectives

Evaluation Procedures and Criteria

Learning Activities and Alternatives

Content Outline

References

Handouts

Overhead Transparency Masters

Training Evaluation Form

RECOMMENDED PREPARATION PROCEDURES

1. Review Materials. The trainer should thoroughly review the entire package and become familiar with the content of each component.

2. Conduct Needs Assessment.
   a. Type in the name and address of the trainer on the Needs Assessment Form.
   b. Duplicate the form and distribute to participants well in advance of the established training date(s).
      Note: Each item on the Needs Assessment Form corresponds to a major unit or section of the Content Outline as designated by a number, decimal, and a zero (e.g., 1.0, 2.0, 3.0). As such, each needs assessment question represents a very broad content area.

      A trainer may design a more specific needs assessment instrument by formulating questions related to subsections of the Content Outline. This is recommended when there is a specific pre-determined focus for training or when there is a limited amount of time for training.

3. Review the completed Needs Assessment Forms.

4. Select the topics/content to be presented.

5. Formulate objectives for the training sessions. The major objectives are listed on the Module Objectives pages(s). In situations where the training is more highly focused, the trainer should formulate more specific objectives.

6. Determine evaluation instruments and procedures. Evaluation procedures and questions corresponding to the objectives are listed in the Evaluation Procedures and Criteria section. Additional evaluation questions should be developed in situations where additional or more specific objectives have been formulated.

7. Determine learning activities.
   a. Review the Content Outline section and select the content to be presented.
   b. Review the Learning Activities section and prepare learning activities that relate to the objectives.
      Note: It is recommended that the format of the training session include frequent participant activities in addition to a traditional lecture presentation. For maximum effectiveness the trainer should change the format of the session at least every 30 minutes. In most cases this will require the development of additional learning activities.

8. Prepare overhead transparencies.
   a. Select and make overhead transparencies that will be used in the training session.
   b. Additional transparencies should be developed by the trainer when specific information needs to be emphasized.

c. In some cases the trainer may need to enlarge the transparencies when the training session will be conducted in a large room. Some transparencies will need to be separated where two have been placed on a page.

9. Prepare handouts
   a. Select and duplicate handouts.
   b. Additional handouts and materials for activities should be developed as needed.

DELIVERY OF MODULE TRAINING

The following is a list of recommendations for trainers relating to the delivery of module instruction.

1. Select a site conducive to training by considering the following:
   a. adequate size
   b. temperature control
   c. ventilation
   d. acoustics

2. Provide comfortable, moveable chairs and a hard writing surface for each participant.

3. Begin with a welcome and introduction of yourself. Include information on your background, training, and experience.

4. Explain the purpose of training.
   a. Provide a rationale (see Instructional Design Specifications section).
   b. Display and/or distribute a copy of the objectives the participants are expected to meet.
   c. Provide participants with a content outline listing the major and secondary level topics to be presented.

5. Explain the evaluation procedures to the participants.

6. It is recommended that the trainer provide a 10-minute break each hour. If the training session is to span the normal lunch period, provide at least 90 minutes. Access to refreshments during the training period is recommended.

7. Inform participants of the time-frame you intend to follow.

8. Periodically summarize the information you have presented.

9. Encourage participants to ask questions, ask for clarification, and/or ask for additional examples.

TRAINING EVALUATION

At the conclusion of the training session(s), ask the participants to complete the Training Evaluation Form.

NE[redacted] ASSESSMENT:

C/SET Module: #4. OVERVIEW OF PL 94-142 AND IEPs

Purpose: THIS MODULE HAS BEEN DESIGNED TO MEET THE NEEDS OF INDIVIDUALS WITH A BROAD RANGE OF SKILLS AND EXPERIENCES. THEREFORE, NOT ALL TRAINING SECTIONS AND COMPONENTS MAY BE APPROPRIATE FOR YOU. TO DETERMINE YOUR TRAINING NEEDS AND TO MAKE OUR TRAINING MORE EFFICIENT AND EFFECTIVE, PLEASE COMPLETE THE FOLLOWING SURVEY. SINCE WE NEED THIS INFORMATION TO PREPARE FOR THE ACTUAL TRAINING SESSIONS, PLEASE RETURN THE SURVEY AS SOON AS POSSIBLE TO:

Instructions: Please rate each of the following items with one of the following indications:

1. High training priority ("Must be covered")
2. Medium training priority ("I could use the information")
3. Low priority ("Not needed or applicable")

TOPIC	RATING		
	High	Med.	Low
1. Policy Considerations in the Drafting of PL 94-142	1	2	3
2. Purpose of PL 94-142	1	2	3
3. A Free Appropriate Public Education	1	2	3
4. Defining Special Education & Related Services	1	2	3
5. Definition of Handicapped students	1	2	3
6. Regulations for Provision of Special Education Services	1	2	3
7. Due Process Procedures	1	2	3
8. Relationship between Section 504 and PL 94-142	1	2	3
9. Implementation Issues	1	2	3
10. Writing IEPs	1	2	3

What other concerns, needs, or questions do you have regarding the topic covered in this module?

Other comments, concerns, recommendations.

PROGRAM: C/SET Training Module

MODULE: Overview of PL 94-142 and IEPs

COMPETENCY: Correctional educators should have a basic understanding of PL 94-142 as well as a working knowledge of its requirements/regulations so that they are better able to serve handicapped offenders.

RATIONALE: Correctional educators should become familiar with the right to education for the handicapped movement which has brought about major legislation providing for the treatment of handicapped individuals. Because many correctional educators need to become involved in developing individual education programs for handicapped inmates, they should be knowledgeable about the provisions of PL 94-142.

PREREQUISITES: It is highly recommended that participants have successfully completed or demonstrated the skills contained in C/SET modules #1 through #3.

OBJECTIVES:

---

1. State and describe the major policy considerations in the drafting of PL 94-142.

2. Define the terms 'special education' and 'related services.'

3. Describe three ways in which students can be identified for special education.

4. Discuss the assessment requirements that assure non-biased special education evaluations.

5. List the eleven categories of handicapping conditions recognized under PL 94-142.

6. Name and describe the three handicapping conditions most commonly identified among incarcerated populations.

7. List the persons responsible for the development of an individualized education program.

8. Describe the components of an individualized education program.

9. Write behavioral objectives that include the behavior to be demonstrated, the conditions under which it will occur, and criteria for measurement of mastery.

10. Develop an individualized education program.

11. Compare/contrast the terms 'least restrictive environment' and 'mainstreaming.' Tell how these terms fit into a 'continuum of services.'

12. Discuss the major considerations in making placement decisions.

13. List and discuss the major due process procedures provided under 94-142.

14. Compare/contrast major provisions of Section 504 with ones found in PL 94-142.

15. Delineate current legal issues in special/correctional education and the implementation of 94-142 in the correctional setting.

16. Discuss the purpose of IEPs.

17. Describe the relationship between IEPs and the least restrictive environment.

18. List and describe the components of an IEP.

19. Using a sample case study for a mildly handicapped student, develop an IEP.

20. Develop an IEP for a selected handicapped student in your school.

EVALUATION PROCEDURES AND CRITERIA:

PRE/POST TEST OBJECTIVES

1. LIST FOUR REASONS WHY CONGRESS ENACTED PL 94-142.

   A.
   B.
   C.
   D.

2. PL 94-142 IS ALSO CALLED THE _____
   _____

3. DEFINE THE FOLLOWING ACRONYMS:

   A. FAPE:_____

   B. LRE:_____

   C. IEP:_____

4. LIST FOUR ESSENTIAL COMPONENTS OF AN "APPROPRIATE" EDUCATION UNDER PL 94-142.

   A.
   B.
   C.
   D.

5. RELATED SERVICES MAY BE DEVELOPMENTAL, CORRECTIVE, OR SUPPORTIVE SERVICES THAT _____
   _____

6. NAME THREE TYPES OF SERVICES THAT CAN BE CONSIDERED RELATED SERVICES.

   A.
   B.
   C.

7. THERE ARE _____ CATEGORIES OF HANDICAPPING CONDITIONS LISTED IN PL 94-142. LIST FOUR OF THEM.

   A.
   B.
   C.
   D.

8. THE LAW MANDATES SERVICES FOR ALL HANDICAPPED STUDENTS BETWEEN THE AGES OF _____.

9. LIST TWO PROCEDURAL SAFEGUARDS THAT MUST BE OBSERVED BEFORE ANY PREPLACEMENT EVALUATION IS INITIATED ON A STUDENT.

   A.
   B.

10. SPECIAL EDUCATION STUDENTS MUST HAVE THEIR PROGRAMS REVIEWED _____ AND BE TOTALLY REEVALUATED EVERY _____ YEARS.

11. WHO CONDUCTS THE SPECIAL EDUCATION EVALUATION?

12. LIST THREE INDIVIDUALS WHO SHOULD PARTICIPATE IN THE DEVELOPMENT OF AN IEP.

   A.
   B.
   C.

13. LIST FOUR THINGS THAT SHOULD BE INCLUDED IN AN IEP.

   A.
   B.
   C.
   D.

14. DEFINE "LEAST RESTRICTIVE ENVIRONMENT" AND "MAINSTREAMING" SO THAT THE SIMILARITIES AND DIFFERENCES ARE CLEAR.

15. GIVE THE TWO CASES IN WHICH PARENT PERMISSION IS REQUIRED IN THE SPECIAL EDUCATION PROCESS.

   A.
   B.

16. NOTICE AND HEARING RIGHTS ARE TO BE PROVIDED EVERY TIME AN EDUCATIONAL AGENCY 'PROPOSES OR REFUSES' TO 'INITIATE OR CHANGE' A STUDENT'S: _____, _____, _____, OR _____.

17. WHAT MUST AN AGENCY DO WHEN A PARENT REFUSES TO PARTICIPATE AND THE HANDICAPPED STUDENT CANNOT ACT ON HIS/HER OWN BEHALF?

18. LIST TWO RIGHTS PARENTS HAVE WITH RESPECT TO THEIR CHILD'S EDUCATIONAL RECORDS.

   A.
   B.

LEARNING ACTIVITIES:

ACTIVITY I. It is recommended that if the material in the content outline is presented in lecture format, periodic discussion questions be provided to the participants to prompt group discussion. The following questions can be used for such purposes.

a) After Section 1.0

Q1: Why was PL 94-142 needed to insure the rights of the handicapped?

Q2: What were some of the problems with the identification of handicapped students prior to the passage of PL 94-142?

Q3: How did PL 94-142 help to increase the number of programs for the handicapped?

b) After Section 2.4

Q1: What is the first purpose mentioned in PL 94-142?

Q2: Was it Congress' original intention that PL 94-142 also apply to correctional facilities?

Q3: How is financial assistance for educating the handicapped provided under 94-142?

Q4: What is the fourth purpose of 94-142?

c) After Section 3.4

Q1: What does FAPE mean?

Q2: What are eight essential components of an "appropriate education"?

d) After Section 4.2.4

Q1: Special education is: _____.

Q2: The term special education can include the following types of instruction:

_____

_____

Q3: Why is the provision of related services also required under PL 94-142?

Q4: What requirements have to be met for a service to be considered a "related service"?

Q5: Name some developmental related services.

Q6: What are corrective related services?

Q7: What support services are included under the related services requirement?

Q8: Are local education agencies required to pay for all related services?

Q9: Most of the controversy surrounding the provision of related services centers around two issues. What are those two issues?

e) **After Section 5.4.4**

Q1: What are some of the characteristics that can result in a student being classified as "seriously emotionally disturbed"?

Q2: Under what conditions must these characteristics be demonstrated to qualify the student for special education services as "seriously emotionally disturbed"?

Q3: Why might some school districts be hesitant to label students as emotionally disturbed?

Q4: What are the conditions that must be met to qualify a student as "mentally retarded" under PL 94-142?

Q5: Learning disabilities can be in the areas of oral expression, _____
_____

Q6: What is the exclusionary clause mentioned under the learning disability category?

Q7: What are the mandatory age ranges for educational services?

Q8: To what extent must states provide services for the students at each end of the age range?

f) **After Section 6.1.3**

Q1: Name three ways a student may be referrred for special education services?

Q2: What is the typical screening procedure used in correctional facilities?

g) **After Section 6.2**

Q1: What due process procedures are required immediately following the initial referral of a student for special education services?

Q2: When is parental permission required?

Q3: What other rights must parents be informed of when their child is to be tested for special education purposes?

Q4: What if the parents cannot be located or the student is a ward of the state?

h) After Section 6.5.6

Q1: An IEP is a written statement of the _____.

Q2: An IEP meeting must be held within ___ calendar days from the date that eligibility was determined.

Q3: An IEP must be implemented _____ following its development.

Q4: Individualized education programs must be revieved at least _____.

Q5: Name three things that an agency must do to ensure that parents are afforded an opportunity to participate in developing the IEP.

Q6: What are the basic elements to be included in an IEP?

Q7: Can a teacher be held accountable for a student meeting goals specified in the IEP?

i) After Section 6.6.4

Q1: Placement decisions should be based on _____.

Q2: What is meant by a "continuum of services"?

Q3: Give two reasons why it is necessary to maintain a continuum of services.

Q4: How can correctional institutions meet the continuum of services requirement?

Q5: What procedural safeguards must be instituted when a student's educational placement is to be changed?

Q6: What constitutes a change in placement?

Q7: How can a suspension/expulsion from school be considered a change in placement?

Q8: What happens to the student when the parents disagree with the school district and request a due process hearing?

j) After Section 6.7.5

Q1: Compare and contrast the terms 'least restricitve environment' and 'mainstreaming'?

Q2: How can correctional facilities help to ensure that the LRE requirement be met?

Q3: Why should placement decisions be made after the IEP is developed?

k) After Section 7.2.2

Q1: Written notice should contain the following elements:

A full explanation of all _____
_____

A description of the action _____
_____

A description of each _____
_____.

Q2: What must the agency do to ensure that the parents understand the notice?

Q3: At what junctures is parental consent required in the special education process?

Q4: What can an agency do when the parent refuses to give consent?

l) After Section 7.3.5

Q1: The _____, passed in 1974, established the rights of parents to access their child's records.

Q2: The maximum time allowed between the issuing of a request and the granting of access is_____.

Q3: If parents disagree with information contained in the records, they they have the right to _____
_____
_____
_____.

Q4: Who may access the student's records?

m) After Section 7.5.6

Q1: Can an individual other than the representative of the handicapped student file a complaint against the educational agency? If so, how is it done?

LEARNING ACTIVITIES:

Q2: What are the two complaint procedures designated under Section 504?

Q3: When can a civil suit be filed under PL 94-142? under Section 504?

Q4: In the past, how were most cases involving handicapped students litigated? How and why has that changed?

Q5: What types of damages may be awarded in a case?

Q6: Under what conditions have damages been awarded?

n) After Section 8.0

Q1: PL 94-142 and Section 504 both mandate a _____ _____.

Q2: _____ is the broader of the two laws, encompassing all handicapped persons regardless of age.

Q3: The sanctions for noncompliance are different for the two laws. What sanctions can be applied under 94-142? What about Section 504?

Q4: List two additional ways that the laws differ.

o) After Section 9.8

Q1: What problems might be encountered in the identification process that takes place in a central intake facility?

Q2: Are the eligibility categories adequate for inmate populations? What are some of the problems with categories in general?

Q3: What problems exist with timelines for implementing IEP services?

Q4: Discuss ways that correctional facilities can meet the "continuum of services" requirement.

Q5: Why might facilities need separate due process procedures for handling 94-142 issues? (separate from institution-wide grievance procedures)

Q6: What are some of the issues involved in appointing surrogate parents for handicapped inmates?

ACTIVITY II. Small Group Discussion

After covering the information in Section 6.3.8, divide

the group into three sections. Display T-7 re Jose Hernandez and ask each group to respond to one of the questions.

Follow the same procedures for the vignette re Vanessa Simmons.

ACTIVITY III. Small Group Discussion

After covering the information in Section 7.4.7, divide the group into three sections. Display transparency T-14 re Joe Berry, and ask each group to respond to one of the questions.

VIGNETTE:

Joe Berry's parents have just read his psychological report and disagree with the agency's proposal to classify their son as emotionally disturbed. They vehemently deny that Joe has any real problems, rationalizing that his incarceration was a result of hanging around with a bad group of kids. The parents feel this label (in addition to his incarceration) will stigmatize Joe. They are requesting a hearing regarding their son's classification as "seriously emotionally disturbed."

What sequence of events must now take place?

What actions must the correctional agency take at this time?

What happens if the parents win? What if they lose?

ACTIVITY IV. Role Play Activity
(after covering the content in Section 7.5.6)

This activity should take about 30 minutes to complete. Follow these steps:

Distribute the attached Problem Sheet to all participants.

Select six participants to role play and give them each an attached role card.

Distribute the attached Group Observer Sheets to all remaining participants.

Brief role-players, focusing on the following points:

-- play role described on card
-- be careful not to overplay role or underplay it

-- listen and react to arguments posed by other role-players
-- do not show your role card to anyone
-- Martin Turner, the Director of Programs will begin the role play session.

To facilitate the role play:

After participants have read the Problem Sheet, answer any questions they might have. Begin the role play by asking Martin Turner to start the "meeting."

Allow the role play to continue until all participants have voiced their positions on the issues. Next, ask the group observers to summarize their findings, followed by the role play observers. The questions provided on the group and role play observer sheets should provide a focus for the discussion. After each role play observer has commented, have each role-player read his or her role card. Ask Burndt Aught to read his last.

The role play debriefing should focus on questions regarding legal requirements under PL 94-142 and the unique problems with implementation in correctional settings. The concept of "hidden agendas" should also be discussed. Each position in the role play activity voices a need of the individual participating in the meeting. To be effective, educators must confront and deal effectively with these needs and concerns.

ACTIVITY V. Developing an IEP

The sample psychological and educational evaluations (H-5) provided for the classroom activity may vary slightly from those performed on children in your district. The IEP form provided for this activity may also vary.

Exercise #1. Developing an IEP for Billy.

Directions:
(1) Read the educational and psychological evaluations for Billy. Then complete the Current Level of Student Performance Data Form (see next page) and the accompanying IEP form (H-1 and H-2).

(2) Summarize the information gathered on the Data Form into short concise descriptive statements, both strengths and weaknesses.

(3) Using these statements as a basis, develop long-range general goals for Billy for the year.

(4) From the long-range goals, generate instructional objectives. Place the terminal behavior desired and the conditions under which it will occur under the heading Instructional Objectives.

(5) Place the criteria for mastery component of the objective under the heading Objective Criteria and Evaluation.

(6) On the back of the form locate Component A, Services Required. Based on the current level of performance and the instructional objectives (and a review of the educational and psychological evaluation), what services are required for Billy?

(7) Decide on a starting date (this will be purely arbitrary for this exercise).

(9) Write the title of the person (e.g., speech therapist, etc.) that is needed for the required service. (Normally the person's name would go under this heading.)

(10) Determine how much time will be spent in a special class setting and how much time in the regular classroom and record it as a percentage.

(11) Make a general statement of why the placement was made.

Check your answers against the model (Answer Key for Exercise #1 - H-1a and Handout-3). If yours differs significantly, revise it until it approximates the model IEP for Billy. *Educational and psychological evaluations for Billy are found in Handouts 4 and 5.

ACTIVITY VI. IEP Meeting (Simulation)

Participants should be divided into groups of 4-6 (depending on the overall size of the group). This part of the session involves a simulation of an IEP meeting and the actual writing of an IEP for a student in the participant's facility. After assigning groups, provide each participant with educational assessment data, and any other pertinent information to be considered in writing an IEP. The data for writing this IEP should be collected from student files at the facility. The group should be given 10-15 minutes to read the information and make personal notes regarding the student's needs. After they have reviewed the information provided, appoint a person to facilitate the IEP meeting and the drafting of the document. When the group is finished, they should have a completed document that fulfills the requirements of the law and can be used for implementing a special education program for one of their inmates. This group activity can be conducted in two ways:

(a) If desired, the data used to generate an already existing IEP could be used. After the group has written their IEP, they could then compare it with the existing IEP to evaluate their work. Each group could be assigned a different student or given information on the same student.

(b) Each group would be given information on a different student. After writing their IEP, the team would present the results to the entire group of workshop participants. A discussion and critique of each resulting IEP would be conducted.

LEARNING ACTIVITIES:

The instructor should obtain student information and files for use in the IEP simulations so that IEPs generated will have some value for the participants. When information is distributed to participants, it is important to emphasize the confidentiality of records. Information should not leave the room where the workshop is being conducted and participants should be instructed not to disclose any confidential information to persons not participating in the workshop.

ROLE PLAY HANDOUTS

PROBLEM SHEET

PARTICIPANTS:

Mrs. Payne: the mother of an incarcerated handicapped teenager; several more children at home.

Turn Overnuleef: son, in a correctional youth facility serving a two year sentence; attends special education classes part of the day.

Martin Turner: Director of Programs

Gedoffa Macase: the counselor/case manager who is assigned to monitor Turn's behavior while he's incarcerated.

Benda Roschark: a psychologist at the correctional institution.

Bernd Aught: the special education teacher working in the correctional facility.

PROBLEM:

You are meeting with several staff members from the institution, a belligerent student who is constantly causing problems, and his parent who is threatening to take the correctional education to a due process hearing.

The student has missed a good number of his special education classes due to acting out behavior that results in his being sent to lock-up. The mother feels that her son is emotionally disturbed and, as a result, needs more related services than he is currently getting.

ROLE CARDS

//

MARTIN TURNER:

You are the Director of Programs for the correctional facility, and as a result you are concerned about the lack of financial resources to support all of your programs. You fear that if this parent went to court and you were mandated to provide more services, your budget would be impossible to balance. You have to weigh the need for all programs and set priorities. You would not feel good about resources being pulled from other projects to offset the cost of psychological services above and beyond what is currently available.

//

!!

MRS. PAYNE:

You are the mother of a 15 year old boy who has had adjustment problems ever since your first husband deserted the family. You had recently remarried just before Turn got into trouble this last time. You feel that much of his behavior is related to his unwillingness to accept your remarriage. As a parent, you feel that this is a critical time for your son and that if he doesn't get some help soon, it will be too late. You are also concerned about the problems your family will go through when Turn is released if he doesn't get help now. You've heard about 94-142 because Turn was classified as behaviorally disordered and received services through the public school. However, you think that the public school didn't do a very good job in providing services. If they had, your son might have gotten better, instead of ending up in prison. You think Turn should get group counseling as a related service.

!!

\\

TURN OVERNULEEF:

You are 15 years old and try to play the tough guy routine, although it doesn't come off too well at times. You have been classified as behaviorally disordered and have been in special education classes for the past three years. You don't think it's done you much good. Although you have an average IQ, your skills are only 3-4 grade level. You often get into fights in less structured settings and become very angry when you think someone is getting on your case.

\\

ROLE CARDS

//

BENDA ROSCHARK:

You are the overworked psychologist that doesn't have enough time to do everything as it is. You evaluated the student and believe that he is truly in need of services, but so is just about everybody else in this place. What can you do, ther are just so many hours in the day? This might be a good opportunity for you to try subtle tactics to pressure the program's coordinator to get the additional staff you have repeatedly requested, since you can only be required to provide these services under 94-192. Besides, you also don't feel that this student would fit into any of the groups you are currently counseling and that he would be disruptive to the progress that has occurred in the group counseling sessions. You're also not sure you can work with Turn. There is just something about him that gets under your skin and makes it difficult for you to work with him professionally.

//

!!

BERND AUGHT:

You are Turn's special education teacher. You feel that if he were not removed from class so often, you might be able to make progress with him academically. You're not sure what the answer is and you are frustrated in general. In fact, you're presently more interested in meeting Benda Roschark and eventually taking her out on a date. During the meeting, you plan to agree with Benda's position (whatever it is) and support whatever points she makes.

!!

\\

GEDOFFA MACASE:

You are the counselor/case manager assigned to monitor Turn's progress in the facility. You have some real concerns about his lack of progress and inability to adjust to structure or pressure of any kind. In some ways, you wish you had more of a counseling background to help you interact more effectively with this student. On the other hand, you also feel he could probably get it together better if he wanted to, but he chooses not to at times. Maybe with the passage of time he will learn to accept more structure, but you have some real doubts. He'll probably just max out his sentence and leave without making any real progress.

\\

ROLE-PLAYER OBSERVER SHEET

1. Was his/her participation general, specific, or lopsided?

2. Were his/her contributions helpful or useless? Why?

3. What effects did his/her participation have on the group?

4. Did his/her contribution indicate that he/she was listening to others in the group?

5. Were his/her contributions centered on solving the group's problems, or were they directed by personal needs, attitudes, and/or values? Explain.

6. Write two or three sentences which best characterize the individual you observed.

GROUP OBSERVER SHEET

1. ATMOSPHERE

   a. Was the general atmosphere of the group cooperative or competitive, friendly or hostile?

   b. Did the atmosphere vary from time to time?

2. PARTICIPATION

   a. Who participated most? Least? Average?

   b. Was their participation helpful or useless?

   c. Why did they participate in that way?

   d. What effect did that kind of participation have on the group?

3. INTEREST AND UNITY

   a. Was the general interest high?

   b. Did the interest lag at times? Was this due to lack of information, understanding, or stimulation?

   c. To what extent did the group feel united by a common purpose? Were there factors that blocked progress? What were they?

4. PROGRESS

   a. How far did the group get?

CONTENT OUTLINE:

1.0 POLICY CONSIDERATIONS IN THE DRAFTING OF PL 94-142

Over the past thirty years, the civil rights of Americans have continually been redefined and ensured through various mental disability laws, civil rights legislation, and court litigation. The Education for All Handicapped Children Act of 1975, commonly referred to as Public Law 94-142, is a direct result of the historical movements which have served to further ensure that all Americans are afforded equal opportunities under the law.

(Display T-1)
When Congress began the task of developing PL 94-142, there were many issues to be addressed in trying to correct the wrongs that handicapped persons had experienced in the educational system. To begin with, no systematic approach was being used to identify handicapped children. As a result, Project Child Find, which was incorporated under PL 93-380 (the forerunner of 94-142), was continued under PL 94-142. This provision required the states to make concerted efforts to identify handicapped students within their local service districts. Secondly, it was well documented that many of the already identified handicapped were being excluded from educational programs on the basis of their handicaps. In order to counteract this, 94-142 required a free, appropriate, public education be afforded all handicapped children. Compounding the whole problem of exclusion was the fact that appropriate programs for the handicapped were almost nonexistent. Thus, even if a state wanted to provide services, they would first have to develop programs. Recognizing the need for these additional programs, Congress appropriated funds through PL 94-142. These monies were and continue to be available to help fund the excess costs of educating handicapped students. State Education Agencies (SEA) are given the responsibility of insuring that local education agencies are in compliance with the law and therefore eligible to receive funds.

Even when programs did exist for handicapped children, many problems were in evidence. Frequently, evaluation procedures were not well established, resulting in biased testing procedures and inadequate data being collected. To alleviate some of the problems, 94-142 stipulates that evaluations must be conducted by multidisciplinary teams and that no one test can be used as the sole criterion for placement into special education. Another criticism of the existing special education programs involved the failure of programs to do anything more than an initial evaluation. There were no provisions for monitoring a student's progress. Since there were no goals, there were no standards by which to judge. In order to correct these inadequacies, the law requires that individual education plans be written for every student that enters a special education program. These plans must identify specific goals and objectives that the student can reasonably be expected to meet, and must delineate how student progress is to be measured. In addition, it also requires that students be totally reevaluated every three years.

Aside from the lack of evaluation criteria, there seemed to be no criteria on which to base placement decisions. As a result, PL

94-142 states that educational services should be provided in the least restrictive environment and that "to the maximum extent appropriate" handicapped children should be educated with nonhandicapped.

Even when a parent could manage to get their child into a program and secure the needed related services, problems were still inherent in the system. Parents were essentially uninformed with regard to their child's program. Frequently, students were evaluated, placed, and moved from one placement to another without parental permission. Parents were also without access to confidential records maintained by the school, and there were no formal procedures for filing complaints regarding the school's failure to provide services or the provision of services without parental permission. These due process issues were addressed in several ways. In 1974, the Buckley Amendment to PL 93-380 gave parents the right to access their child's records. PL 94-142 delineated further rights for parents by requiring notice and consent and by establishing procedures for initiating a due process hearing with an impartial hearing officer.

2.0 PURPOSE OF PL 94-142

(Display T-2)
What did Congress hope to achieve with the passage of PL 94-142? What four purposes were given in the regulations?

2.1 As previously mentioned, Congress had found that most handicapped students were either receiving inadequate services or no services at all. Since so many students were falling between the cracks, it was the express purpose of 94-142 to insure that all handicapped children are provided a free appropriate public education (FAPE). This education is to include special education and related services to meet their individual needs. These rights are further insured by Section 121a.2 of the implementing regulations, which states that the provisions apply to all political subdivisions of the state that are involved in the education of handicapped children including correctional facilities. While it has taken some time for the provisions of 94-142 to move into the area of correctional education, it has been the intent of the law since 1977.

2.2 The second purpose of 94-142 was to protect the rights of not only handicapped children but also of their parents. These rights and protections are further detailed in Subpart E - Procedural Safeguards (121a.500-121a.534) and will be covered in more depth in later discussions.

2.3 Third, the law was to assist states and local education agencies (LEAs) to provide the services required by handicapped students. Direct assistance is provided by "flow-through" funds that are given to state education agencies (SEAs) for

distribution to LEAs. The distribution of these funds is based on "head counts" (the number of students falling into a handicapping category) and the funds are to be applied to the excess costs of educating handicapped students. Initially, only 10% of the cost was funded, growing to 40% by the fourth year, which still leaves a substantial amount of the excess costs to be borne by the state or local agency.

Indirect assistance for educating the handicapped has taken several forms. Some monies have been made available to institutions of higher education to develop, implement, or expand teacher training programs in special education. Other funds have been appropriated to support research efforts and model program development.

2.4 The final purpose mentioned in the regulations (Section 121a.1) is to monitor and to insure the effectiveness of states' efforts to provide the needed services. To this end, 94-142 designates that the SEA is ultimately responsible for insuring free appropriate public education (FAPE) for every handicapped student (121a.134). The SEA is charged with the responsibility of overseeing the development of written interagency agreements that will assure FAPE to students who are served by agencies other than the public schools. The law also requires that the SEA file an Annual Program Plan which details the state's proposal for meeting the various conditions set forth in 94-142.

3.0 FREE APPROPRIATE PUBLIC EDUCATION

What does the term "free appropriate public education" mean?

3.1 Free appropriate public education as mandated by PL 94-142 is inclusive of special education and related services which are:

Free... meaning provided at public expense, without charge to the parent.

Appropriate... in other words, they meet the standards set by the SEA and detailed in 94-142.

Public... including preschool, elementary, and secondary school programs within a state.

Education... meaning services that are provided in accordance with an individualized education program.

3.2 Several law suits litigated prior to PL 94-142 helped to lay the groundwork for what was to be considered the necessary components of education for the handicapped. Pennsylvania Association for Retarded Children v. State of Pennsylvania and Mills v. Board of Education of the District of Columbia both

stipulated that handicapped students were entitled to public education programs that were designed to meet their specific needs.

Since the Mills and PARC cases, additional law suits have sought to establish the parameters of what is to be considered appropriate. In Fialkowski v. Shapp, 405 F. Supp. 946 (E.D. Pa. 1975) the court ruled that if a handicapped child was not able to benefit from the educational program provided, then it amounted to functional exclusion, which was not permissable. However, on the other end of the continuum, Springdale School District v. Grace, 494 F. Supp. 266 (S.D. Ark 1980) found that the LEA was not required to provide a handicapped student with the best education, only an appropriate one. In this instance, the LEA wanted a girl to attend the state school for the deaf while the parent wanted the local school district to provide an appropriate education. The LEA argued that the state school could provide the best education for the child, but the court ruled that the law did not require the best. It requires only that the program be appropriate and when two programs are both demonstrated to be appropriate, then you must consider the least restrictive environment (LRE) requirement. When "LRE" was considered, the local school was found to meet that requirement.

"Appropriate" has generally been defined by the regulations and various judicial interpretations as having eight essential components. To begin with it must include specially designed instruction to meet the student's individual needs and related services when required. In addition, to be "appropriate," the program must be based on an adequate evaluation and be provided in accordance with an IEP. Another aspect is that the student must be able to benefit from the appropriate program and a periodic review of progress must be included. In addition to these requirements, the program is to be provided in the least restrictive environment. Finally, there is to be no interruption in services, if such an interruption would cause the student to regress considerably, as in the case of more severely handicapped students (Martin, 1980).

4.0 DEFINING SPECIAL EDUCATION AND RELATED SERVICES

When the law mentions special education, what exactly does it mean?

What is considered a related service?

(Display T-3)

4.1 Special education is defined in the regulations as encompassing:

4.1.1 Any specially designed instruction to meet the individual needs of a handicapped student -- this can

include classroom instruction, physical education, homebound instruction, and instruction in hospitals and institutions.

4.1.2 Speech pathology, or other related services that consist of specially designed instruction that is required to meet the unique needs of a student.

4.1.3 Additionally, it can include vocational education if it consists of specially designed instruction.

4.1.4 Although the law stipulates that special education be provided "at no cost," it does not prohibit the payment of incidental fees which are normally charged to nonhandicapped as part of the regular education program. For example: if a school normally requires a towel fee for P.E. or lab fees, then they can require handicapped students to pay the same.

4.1.5 The term "physical education" is further defined as including: physical and motor fitness, aquatics, dance, individual and group games/sports, and adapted physical education (i.e., movement and motor development).

4.2 The related services provision of PL 94-142 recognizes that handicapped students often require more than just academic instruction if they are to have access to the least restrictive environment and movement toward the mainstream. While they are called related service, these services are really necessities, because without them the student would be constructively excluded from appropriate programs (Martin, 1980). An excellent example is found in Tatro v. Texas, 625 F. 2d 577 (5th Cir. 1980), where catheterization of a spina bifida child was found to be a related service, because without the service the student would be unable to attend a program on a regular school campus.

The related services requirement is perhaps one of the most controversial components of PL 94-142 and one of the hardest to implement in a correctional setting, where access to certain services is limited. The law defines "related services" as being those services required to assist a handicapped student to benefit from their special education program. In general, the term includes transportation and developmental, corrective, and other supportive services. Specific examples are provided, but the provision of related services is not limited to those listed.

4.2.1 Developmental related services can take the form of early identification and assessment of disabilities in children, physical therapy, and certain medical examinations. However, medical examinations are only considered related services when provided as diagnostic services to determine a student's medically related handicapping condition and the extent to which the

student may require special education. On-going medical attention is not considered a related service.

4.2.2 Corrective services include speech pathology and audiology, as well as occupational therapy. The term audiology encompasses the identification of the range, nature, and degree of hearing loss, as well as referrals for medical or other professional services for habilitation of hearing. It also includes the provision of counseling and guidance regarding hearing loss. Speech pathology covers a similar range of services as they relate to specific speech and language disorders (i.e., identification, diagnosis, referral, etc.). Occupational therapy can include both preventative as well as habilitative services.

4.2.3 Supportive services can encompass such things as counseling or psychological services, recreation, parent counseling and training, social work services in the school, and transportation.

Counseling services may be provided by social workers, psychologists, guidance counselors, or other qualified personnel. Psychological services might include administering and interpreting psychological and educational tests, as well as consulting with staff members or planning and managing a program of psychological services for handicapped students and their parents. Parent counseling and training can be used as a means for expanding parents' understanding of the special needs of their child, in addition to providing them with information regarding child development.

Social work services that can be provided might include preparing a developmental history, or the provision of individual or group counseling with the student and his/her family. Such counseling is to address the problems in the child's living situation that affect the students' adjustment in school.

Therapeutic recreation services and leisure education are two additional support services listed in the regulations. They are to include both assessment and the provision of services.

Transportation provided as a related service can involve travel to and from school, between schools, and travel in and around school buildings. Specialized equipment (i.e., ramps, lifts, and adapted buses) that are required to provide special transportation for a handicapped student are also considered related services.

4.2.4 In many instances, school districts have been reluctant to provide related services, other than those currently

available in their schools, and often teachers have been 'advised' against mentioning them at IEP meetings and parent conferences. Part of the problem arises not out of lack of commitment to serving the handicapped student, but out of a fear that the school district will be unable to meet the financial obligation incurred with the provision of such services. These financial concerns can have an even greater impact in a correctional setting where education must compete with other programs for limited funds. However, there is nothing in the law that stipulates that the LEA must absorb all the costs, only that it must ensure the provision of these services at no cost to the parents. Some of these related services may be provided through interagency agreements, with all or part of the costs absorbed in another agency's budget. As previously mentioned, the SEA has the sole responsibility for developing interagency agreements that insure an appropriate education to all handicapped students within their LEAs. These agreements, when well planned and developed, can help provide the vehicle by which needed related services can be offered in the correctional setting (Hockenberry, 1980).

Much of the controversy in public schools regarding related services has centered around two issues. The first issue is whether school can be required to provide some minimum level of a related service. It has frequently been argued by school districts that any provision of a service meets the minimum requirement (e.g., 1/2 hour of speech therapy a week). However, the real question in this issue is 'appropriateness' and whether a student can benefit from their special education program. If the student does not benefit, then more of the service may be required (Martin, 1980).

The second issue has involved controversy over where to draw the line between 'medical services' and 'related services.' As indicated in the regulations, medical diagnostic services must be made available, but it is the responsibility of the parent to provide medical treatment. The deciding factor is not whether the service is performed by a physician (e.g., catheterization by a doctor, or psychotherapy by a psychiatrist), but whether it is necessary to enable the student to benefit from their special education (Martin, 1980).

The only case, concerning the provisions of PL 94-142, that has been heard by the Supreme Court centered around these issues of appropriateness and whether or not a related service was required. In The Board of Education of the Hendrik Hudson Central School District v. Rowley, et al., 1982, the court established that related services were only required if the student could not benefit from their program without them. Since Amy Rowley, a deaf child placed in a regular classroom, was performing better than the average child in her class,

the court found that the provision of an interpreter was not necessary. Amy's parents had argued that she would make greater progress if provided with an interpreter, since without one she could only understand and respond to about 60% of what was being said in the classroom. However, the program without the interpreter was considered 'appropriate' by the court because 'at the minimum' she was able to benefit from it.

3.0 DEFINITIONS OF HANDICAPPED STUDENTS

Who is considered handicapped under PL 94-142?

How old can you be and still qualify for special education services under PL 94-142?

Which handicaps are most frequently identified in correctional populations?

(Display T-4)

There are eleven categories of handicapping conditions recognized in PL 94-142. They include: deaf, deaf-blind, hard of hearing, speech impaired, multihandicapped, orthopedically impaired, other health impaired, visually handicapped, seriously emotionally disturbed, specific learning disability, and mentally retarded. These last three categories are the ones most frequently identified among incarcerated populations, so they will be highlighted in this section.

3.1 The term 'seriously emotionally disturbed' found in Section 121a.5 (b) (8) [PL 94-142] is used to indicate a condition which includes one or more of the following characteristics which adversely affects a student's educational performance:

a) an inability to learn which cannot be explained by intellectual, sensory, or health factors;

b) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

c) inappropriate types of behavior or feelings under normal circumstances;

d) a general pervasive mood of unhappiness or depression;

or

e) a tendency to develop physical symptoms or fears associated with personal or school problems.

A key concept in this definition is the fact that the emotional problems must 'adversely affect educational performance' before

the student can be considered emotionally disturbed under the regulations. Furthermore, the condition must have been exhibited over a long period of time and to a marked degree for a student to be classified as seriously emotionally disturbed. In addition, the term is not meant to include children who are socially maladjusted, unless it is determined that they are also seriously emotionally disturbed.

It is widely accepted that many of the juveniles that become delinquent have a history of truancy, academic failure, and difficult family relations (Smith & Mockenberry, 1980). A number of studies have reported statistics regarding juvenile and adult offenders that may be considered learning disabled or mentally retarded under 94-142. While these statistics are more readily available, incidence figures on the number of emotionally disturbed incarcerated individuals have not been thoroughly investigated. Morgan's study (1979) of 204 correctional institutions across the U.S. found 16.1% of the juvenile offenders reported as emotionally disturbed. Although this study has some definite methodological flaws, it is one of the few that reports statistics on the incidence of this handicapping condition among incarcerated juveniles. This lack of accurate statistics may be, in part, due to the confusion between who is considered socially maladjusted and who is considered emotionally disturbed. In addition, as is the case with some school districts, correctional facilities may be hesitant to label inmates as seriously emotionally disturbed, as this classification may require the provision of related services (e.g., counseling and psychotherapy) that the institution is unwilling or unable to ensure.

The failure to provide such services for seriously emotionally disturbed adjudicated juveniles was the basis for a class action suit in North Carolina. In Willie M., et al. v. Hunt, et al., 1980, a consent decree was entered into whereby students eighteen and younger, with histories of violent and assaultive behavior, were to be placed in residential programs which provide the required treatment in conjunction with the needed security. Following this consent decree, the North Carolina legislature established a reserve fund of ten million dollars to ensure the provision of the additional services mandated for this population. As is evidenced in this case, the provision of appropriate services for this unique population of handicapped students can be extremely costly.

5.2 To be classified as mentally retarded under PL 94-142, a student must have significant subaverage intellectual functioning which exists concurrently with adaptive behavior deficits. These characteristics must have been manifested during the developmental period and must adversely affect the student's educational performance. While there is wide discrepancy among reported incidence figures, several authors express little doubt that a disproportionate number of incarcerated juveniles and adults can be classified as mentally retarded (Santamour & West, 1982). One Texas study

reported a 12-16% incidence rate for juvenile offenders and 10% for incarcerated adults. Another study reported that 9.5% of the adult inmate population had an IQ below 70, with 1.6% having an IQ score below 55 (Santamour & West, 1982).

5.3 Students can be classified as having a learning disability if they do not achieve commensurate with their age and ability levels in one or more areas, when provided with learning experiences appropriate for the student's age and ability. These discrepancies can be in the following areas: oral expression, listening comprehension, written comprehension, basic reading skill, reading comprehension, mathematics calculation, or mathematics reasoning skill. This category includes students who might have perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

However, students cannot be identified as learning disabled if the severe discrepancy is primarily the result of:

a) a visual, hearing, or motor handicap;
b) mental retardation;
c) emotional disturbance; or
d) environmental, cultural, or economic disadvantage.

This exclusionary clause has been criticized by some special educators as it is often difficult to separate out learning problems and behavioral problems. The two frequently are exhibited together and in many cases it is hard to determine which came first. There has also been debate over whether a person who has a visual or hearing impairment could not also have a learning disability.

5.4 Section 121a.122 of PL 94-142 stipulated that services were to be provided for all identified handicapped children between the ages of 3 and 21 by September 1, 1980. However, states are not required to serve the 3-5 or 18-21 year old ranges if this is inconsistent with state law or practice. In other words, unless the state also provides educational services to nonhandicapped students between those ages, then it is not obligated to provide services for the handicapped in those age groups.

Section 121a.300 gives further detail regarding the applicability of the age range requirements.

5.4.1 When a state, either by law or court order, provides education for handicapped students in any disability category within any of these age groups, then it must make 'FAPE' available to all handicapped students who have the same disability and are of the same age.

5.4.2 When a public agency provides education to nonhandicapped children in any of these age groups, then it must make 'FAPE' available to at least a proportionate number of handicapped students of the same age.

5.4.3 If fifty percent or more of the handicapped children in any disability category, in any of the age groups, are provided services, then the public agency must make 'FAPE' available to all students of the same age and disability group.

5.4.4 Furthermore, if a public agency extends an education to a handicapped student in any of these age groups, the education must be provided in accordance with the provisions of PL 94-142, including the insuring of parental rights.

6.0 REGULATIONS FOR PROVISION OF SPECIAL EDUCATION SERVICES

6.1 Referral Procedures

How are students referred for special education?

What is the function of a screening committee?

(Display T-5)

6.1.1 In addition to referrals from outside agencies, handicapped students may be identified through general screening procedures established in most schools. It is common practice for schools to administer group achievement tests at regular intervals throughout a student's educational experience. These group tests serve as initial screening instruments, with students scoring in the lower percentiles being referred for further individualized testing. Many handicapped students come to the attention of correctional educators in this way (i.e., through the screening process employed in intake centers).

Typically, correctional systems (as part of their classification process) evaluate all inmates as they enter the system. Based on these evaluations, and the availability of special education services, inmates suspected of having a handicapping condition are generally referred for further testing. Some institutions use a cut-off score of around 5th grade reading level. Inmates scoring at or above the 5th grade are encouraged to enroll in GED programs, while those scoring below may be referred to Adult Basic Education Programs or special education services.

6.1.2 Some students come to the attention of special education through teacher referrals. If a teacher through his/her interaction with a student, suspects that a student might qualify as handicapped, then further testing can be recommended.

Many school districts have now instituted screening committees to handle this function and assure that the recommendation is legitimate. These screening committees are usually school-based and are generally comprised of teachers, the school counselor, and a school psychologist. The special education teacher may or may not be a member of the team, depending on the district's approach to referrals. Once a referral is sent to the committee, it is their responsibility to collect information from all of the student's teachers. The school counselor or psychologist may also be required to observe the student in a regular class to collect behavioral and anecdotal data. In addition, some districts require documentation of various alternatives that have been tried in the regular classroom, before they will recommend a student for special education assessment. Once the pertinent information has been assembled, the committee will meet and make a recommendation as to whether the student should be referred for further special education evaluation.

6.1.3 In addition to school and community agency referrals, a parent can also initiate a referral to special education. Depending on the child's age, the parent may request that their child be assessed through one of the developmental evaluation centers established under the 'child find system.' Parents may also request that their school age child be evaluated for special education placement. In other words, parents have the right to request that the correctional facility complete a special education evaluation, if the parents feel their child has learning problems. However, parent referrals, in general, occur more frequently when the handicapping condition is moderate to severe in nature.

6.2 Procedural Due Process

What is meant by the term 'procedural due process'?

How much is required under PL 94-142?

Once a student has been referred for special education evaluation and services, there are certain due process procedures which must be initiated to ensure the rights of the handicapped and their parents. They will be briefly introduced here to illustrate the sequence of events, and then described in greater detail later.

Following screening or initial referral, parents are to be notified of the action the public agency wishes to initiate. In addition to being notified, their consent is required prior to the agency conducting an individual educational evaluation. Parental consent is also required prior to initial placement into special education.

At this time, the agency should also inform the parents of

disability, the law additionally requires that the multidisciplinary team include the student's regular classroom teacher, or a regular classroom teacher qualified to teach a student of that age. Furthermore, at least one of the members of the evaluation team must be qualified to conduct individual diagnostic examinations of students (i.e., a school psychologist, speech-language pathologist, or remedial reading teacher).

The regulations regarding learning disabilities also stipulate that the student's academic performance in the regular classroom setting be observed by at least one team member other than the student's regular teacher. The law further states that if the student is out of school, a team member is to observe the student in an environment appropriate for a student of that age. These requirements are difficult to meet within the correctional setting because the evaluation process often occurs in the diagnostic intake center.

Following the evaluation and observation of a student, the team is required to prepare a written report stating their results. As part of this report, they must state whether the student has a specific learning disability and the basis on which they made their decision. The report must include the relevant behavior noted during the observation and the relationship that behavior has to the student's academic performance. If there are any relevant medical findings, they should also be reported, along with whether or not a severe discrepancy exists that cannot be corrected without the provision of special education and related services. The report must also address the effects of any environmental, cultural, or economic disadvantage, and as previously mentioned, these factors are often difficult to separate. Finally, all team members are expected to certify in writing whether the report reflects their own conclusion. If it does not, they must submit a separate statement presenting their conclusions.

6.3.7 When the parents do not agree with the agency's evaluation, they have the right to an independent educational evaluation conducted by a qualified examiner, who is not an employee of the public agency. If the parents make a request, then the agency must provide them with information on where an independent educational assessment may be obtained. Likewise, this evaluation is also to be provided at public expense. However, if the agency chooses, it may initiate a hearing to show that its assessment is appropriate. If the agency's evaluation is upheld, then the parent still has the right to an independent evaluation, but not at public expense.

6.3.8 To further protect the rights of handicapped students, the law requires that they be fully reevaluated at least every three years. However, reevaluations can be conducted more frequently if conditions warrant or if a request is made by the student's parents or teacher. (Display T-7)

6.4 Eligibility

Who determines if a student is eligible for special education services?

What is an eligibility formula?

What are some problems with the use of eligibility formulas?

(Display T-8)

6.4.1 Once a student has been evaluated, the results are then used as the basis for determining whether that student fits in one of the eleven categories of handicapping conditions listed in the regulations. Eligibility determination is usually completed by the multidisciplinary evaluation team or the school-based committee.

6.4.2 Most, if not all, states have attempted to establish criteria for placement in special education programs through the use of eligibility formulas. This seems to be the most typical in the area of learning disabilites, where a discrepancy between the student's potential and actual achievement must be quantified. While there are a number of formulas for computing academic discrepancies, most utilize the student's Intelligence Quotient and a measurement of his/her achievement. In some states, the number of months between the student's expected achievement and actual achievement indicate the type of placement for which s/he is eligible. While these formulas are used widely, their validity is highly questionable and their use poses some serious concerns for special educators.

Let's look at an example of a discrepancy formula which has been used in several states. To find the student's expected functioning, subtract 5.6 (the average age for starting school) from the student's chronological age and multiply by his/her IQ which has been converted into a decimal. The calculation for finding the expected achievement for a student who is fifteen years and nine months old with a Full Scale IQ of 89 on the WISC-R follows:

15.9 (student's chronological age)

their right to access their child's records and to request an independent evaluation if they so choose. It is also the responsibility of the agency to describe their right to a hearing as provided in Section 121a.508 of the regulations.

If no parent can be identified or their whereabouts determined, or if the student is also a ward of the state, then the public agency must ensure that the rights of the student are protected. It is the responsibility of the pubic agency to assign a surrogate parent to act on behalf of the handicapped student. The surrogate parent may represent the student in matters pertaining to identification, evaluation, and educational placement and in the provision of a free appropriate public education. The procedures for selecting and assigning surrogate parents are governed by state law. However, PL 94-142 requires that they not be employees of any public agency which is involved in the education or care of the student. Additionally, they must have no conflicts of interest and possess knowledge and skills that ensure their ability to adequately represent the student.

After the procedural requirements have been met and parental consent obtained, the student can progress to the next step in the process, that of evaluation.

6.3 Evaluation Procedures

Does PL 94-142 specify the procedures for special education evaluations?

Does the law require that students be reevaluated periodically?

(Display T-6)

In order to correct some of the past injustices of the system, PL 94-142 specifically addresses the procedures to be employed when evaluating a student for special education purposes. To begin with, a full and individual evaluation of the student's educational needs must be completed prior to initial placement in special education.

This evaluation must be conducted in accordance with the following guidelines:

6.3.1 Tests and evaluation materials must be administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so. Additionally, these tests and evaluation materials must have been validated for the specific purpose for which they are being used. It is also required that they be administered by trained personnel in conformance with the instructions provided in the test's manual.

6.3.2 The law also requires that no single procedure be used as the sole criterion for determining an appropriate educational program. Therefore, tests and evaluation

materials must be selected so as to include those tailored to assess specific areas of educational needs, as well as those which merely provide a general intelligence quotient. An educational assessment might include standardized tests in reading, math, and language arts, vocational aptitude tests, behavioral checklists, or speech and hearing tests, as well as IQ tests.

In a 1972 case, Larry P. v. Riles, 343 F. Supp. 1306, 1315 (N.D. Cal. 1972), the court granted a preliminary injunction barring the placing of black students in classes for the mentally retarded on the sole basis of an IQ test. This relief was granted because the plaintiffs had demonstrated that such evaluation procedures had resulted in a disproportionate number of black students being labeled and served as educable mentally retarded.

This was the beginning of the debate over whether or not IQ tests are culturally biased. Since this case, several courts have ruled both in favor of and against the notion that IQ tests are biased. However, by the time Larry P. v. Riles came to trial in 1979, PL 94-142 and the Rehabilitation Act were in effect, thus requiring more stringent evaluation procedures.

6.3.3 A further requirement is that tests must measure what they purport to measure. In other words, their selection and administration must ensure that the test results accurately reflect a student's aptitude or achievement, rather than the student's impaired sensory, manual, or speaking skills. An example of this occurred when a language impaired student was tested using the Stanford-Binet IQ Test, which relies heavily on verbal responses. The test score in this instance did not accurately reflect the student's ability, but instead reflected his impaired speaking skills. It is however, permissible to evaluate a student's impaired skills with a test that is specifically designed to measure those skills. For example, the Goldman-Fristoe Test of Articulation is specifically designed to measure language (specifically articulation) impairment.

6.3.4 The law also requires that the evaluation be made by a multidisciplinary team or group of persons. This group must include at least one teacher or other specialist with knowledge in the area of the suspected disability.

6.3.5 Finally, the regulations state that the student must be assessed in all areas that are related to the suspected disability. This evaluation should include, where appropriate, assessment of health, hearing, vision, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

6.3.6 When a student is suspected of having a learning

```
-   5.6  (average age at school entry)
-------

   10.3
x   .89  (IQ measured in hundredths)
--------

    9.16 (expected achievement)
```

Rounding off the expected achievement to the nearest tenth, we would expect this individual to be achieving on the level of a student in the second month of the ninth grade.

To determine whether this student would qualify for special services, subtract his actual achievement from his expected achievement. This enables you to find the number of months this student is behind in each area. To continue with the example, let's use scores on the Peabody Individual Achievement Test (PIAT) to compute his discrepancy.

Subtest	Score	Discrep.	Range
Mathematics	7.3	-19 mo.	mild
Reading Recog.	5.1	-41 mo.	severe
Reading Compre.	4.7	-45 mo.	severe
Spelling	5.8	-34 mo.	moderate
Gen. Info.	8.2	-10 mo.	mild
Total Test	6.2	-30 mo.	moderate

The range of the discrepancy determines the type of placement available to a student. In our example, let's say that the student is in the ninth grade. If a self-contained program were available, the student would qualify for those services as his/her discrepancy in reading is over forty months, which from the 7th grade on is indicative of severe discrepancy. As most school districts do not have self-contained services for learning disabled students, our example would qualify for resource assistance for reading and spelling, as s/he also has a moderate discrepancy (between 30-40 months) in spelling. Since the discrepancy in math is in the mild range (1-30 months), the student would only be eligible for assistance or consultation services in this area.

As grade levels decrease, the range of mild, moderate, and severe discrepancies also decreases. Thus, a fourth grade student who had a twenty month discrepancy in reading comprehension would be in the moderate range.

Where discrepancy formulas are used in placement decisions,

a specific reason for the discrepancy must be stated. If it is felt that the discrepancy could be attributed to a memory or processing deficit rather than to emotional problems, environmental factors, etc., placement as a student with a learning disability could be justified.

It is interesting to note that by changing from one discrepancy formula to another you can qualify more students for services or exclude more students from receiving special education. The current movement is to tighten the eligibility formulas used in classifying students as learning disabled. Some states feel that some students who are being served are not truly learning disabled, but 'slow learners.' As slow learners, these students do not qualify for services since they fall between the categories of learning disabled and mentally retarded.

As discrepancy formulas are tightened and more students are denied access to special education, we might expect to see legal challenges to the use of such formulas. In light of previous claims that IQ tests are culturally biased, special educators must question the validity of eligibility formulas that are based on the use of an IQ score which may or may not accurately reflect a student's ability.

A second reason to question their validity lies in the educational research that has demonstrated the ability to raise IQ scores through well-designed instructional interventions. One such study employed highly structured direct instruction programs to increase the academic performance of low socio-economic students enrolled in a Head Start Program. After two years of instruction, the researchers found that not only had they increased the academic achievement of their students, but they had also increased the mean IQ of the experimental group by 25 points. If we use IQ scores that are potentially unstable (bearing in mind that these are the same ones we questioned as being culturally biased), can we really calculate what a student's expected achievement level is, or are we merely calculating what we can expect him/her to achieve given no intervention other than the regular classroom instruction. If these scores are inaccurate or biased is it fair then to make projections of a student's ability on the basis of these scores?

6.4.3 Once a determination of eligibility has been made, the parents must be notified of the committee's findings. If the student qualified as handicapped under PL 94-142, the parents must be invited to attend an IEP meeting to assist in the development of their child's educational program.

OVERVIEW OF PL 94-142 AND IEPs:

SUMMARY:

PL 94-142 was drafted by Congress in an effort to ensure educational and related services for handicapped individuals between the ages of 3 and 21. Educational services can include any specially designed instruction, whether offered in the regular classroom, in a special school, or as homebound instruction. Related services (i.e., specialized transportation, counseling, speech therapy, etc.) are those services which are necessary to assist a handicapped student to benefit from their specially designed educational program. In addition to educational and related services, the implementing regulations provide certain safeguards which must be observed when serving handicapped students.

When a student is referred for special education evaluation, the parents must be notified of the action the school proposes to take. Parents must give permission prior to their child being evaluated for special education services and before initial placement into a program. Once parental permission is obtained, the student is evaluated by a multidisciplinary team. Evaluation results are then used to determine if the student meets classification criteria for one of the eleven categories of handicapping conditions listed in PL 94-142. When a student is eligible for services, the next step is the development of an individualized education program.

6.5 Individualized Education Program

What is an individualized education program (IEP)?

Who should develop the IEP?

Are parents to be involved in the development of the IEP?

Are there timelines that must be observed when developing and implementing the IEP?

(Display T-9)

After a student has been evaluated and found to be eligible for services under PL 94-142, an Individualized Education Program (IEP) is developed. This individualized program is a written statement of the goals and objectives that are to be met in providing an appropriate education for the student. The IEP must be in effect before any special education or related services are provided and must be implemented as soon as possible following its development.

6.5.1 It is the responsibility of the public agency to initiate and conduct an IEP meeting whenever it is necessary to develop, review, or revise the individualized program of a handicapped student. When a student is referred to special education for the first time, an IEP meeting must be held within 30 calendar days from the date that eligibility was determined. Once a student is receiving services, then periodic reviews of their program must be conducted at least annually. More frequent reviews and revisions can be initiated when necessary.

6.5.2 These IEP meetings should be scheduled at a convenient time to encourage and facilitate parental involvement in the development of the educational program. Other participants involved in IEP meetings would include: a representative of the public agency, the student's teacher, the student (when appropriate), and any other individuals at the discretion of the parent or agency.

When a student has been evaluated for special education for the first time, the law requires that a member of the evaluation team participate in the IEP meeting. If a team member cannot, then there must be someone else present at the meeting who is knowledgable about the evaluation procedures and is familiar with the student's evaluation. Furthermore, either the teacher or the agency representative should be qualified in the area of the student's suspected disability.

6.5.3 To insure that the parents of a handicapped student are afforded the opportunity to participate, they should be notified early enough so that they may plan to attend. The meeting must also be schedule at a mutually agreed time and place. The notification sent to parents should state the purpose, time, and location of the meeting and who will attend.

A meeting can be held without the parents, but the agency must maintain a record of the attempts they have made to encourage parent participation. This documentation might include detailed records of phone calls and visits made to the parents, as well as copies of correspondence sent.

If a parent cannot be located or chooses not to participate on behalf of their handicapped child, then a surrogate parent must be appointed. The surrogate parent would act on behalf of the student in all matters concerning the development of the IEP and the provision of a free appropriate public education.

The agency must also ensure that the parent understands the proceedings by providing an interpreter when necessary. In addition, if the parent requests, they must also provide a copy of the Individualized Education Program.

6.5.4 Aside from designating who is to take part in the development of the IEP, the law also stipulates the basic content of the document. First, a statement regarding the student's present level of educational performance must be provided. Based on this information, a list of annual goals and short-term instructional objectives should be developed and included. Once these have been written, a statement must be provided which delineates the specific special education and related services that are to be provided and the extent to which the student will participate in

regular educational programs. A projected date for initiation of services is also required, along with some indication of the duration of the services being provided. Finally, the IEP must include objective criteria, evaluation procedures, and schedules for determining whether the objectives are being met.

6.5.5 When the public agency decides that a handicapped student should be placed in or referred to a private school, they must first conduct an IEP meeting to develop the program for the student. A representative of the private facility should attend the IEP meeting. If they are unable to do so, the public agency can use other methods, such as individual or conference calls, to ensure the participation of the private agency. Once the student enters the private school, then the private school may initiate and conduct IEP meetings. However, it remains the responsibility of the public agency to ensure that one of their representatives and the parents are involved in any decision concerning the student's program and that they agree to any proposed changes in the program prior to the changes being implemented.

In one instance, a deaf student was incarcerated in a correctional facility located near the state school for the deaf. Since there was no one within the correctional setting that could communicate in sign language, and an interpreter could not be found for the correctional setting, it was determined that educational services should be provided through the state school for the deaf. As a result, an evaluation was conducted by the diagnostic intake center, the student went through classification and an IEP meeting was held in the correctional setting. The student was then designated to attend the special classes at the school for the deaf and officials from the school participated in finalizing the IEP. After the student entered the school for the deaf, then future IEPs were to be developed by school personnel. However, it remained the responsibility of the correctional agency to monitor the IEP, although the services were being provided by the school for the deaf.

6.5.6 One concern that has been voiced regarding IEPs is that of accountability. Section 121a.349 clearly states that the law does not require any agency, teacher, or other person to be held accountable when a student does not achieve the annual goals and objectives specified in the IEP. The intent is that the IEP serves to identify and monitor the goals that are educationally relevant for that student, not that they assure attainment of those goals. However, if a student was not making adequate progress toward mastery of his or her individual objectives, one would have to question the 'appropriateness' of the goals or perhaps the 'appropriateness' of the

educational programs/methods being used.

6.6 Placement

What criteria should be used in deciding special education placement?

What is meant by a 'continuum of services'?

Can correctional institutions provide a 'continuum of services'?

What procedures must be followed when changing the educational placement of a handicapped student?

(Display T-10)

Once the goals and objectives have been developed for a student's IEP, a committee must decide where to place the student so that s/he might receive the required services. This committee must be composed of persons who are knowledgeable about the student, the evaluation data, and the placement options. They must then make a decision based on the information gathered from a variety of sources. This information should include aptitude and achievement test scores, as well as teacher recommendations and information regarding the student's physical condition, social or cultural background, and adaptive behavior levels.

Although you might have a general idea where the student should be placed once you have completed the evaluation, actual placement decisions should not be made until the IEP is written. This is the logical sequence of events since the "placement" is supposed to be where the student can receive the needed services and work towards achieving certain goals. If those goals have not been clearly delineated, then it is hard to appropriately decide where they can best be met.

6.6.1 In order to ensure that appropriate placements exist for all handicapped students, Section 121a.551 requires that each public agency provide for a continuum of placements. This continuum must include instruction in regular classes, resource rooms, self-contained classes, special schools, homebound instruction, and instruction in hospitals and institutions. Each one of these placements must provide for the needed special education and related services. A continuum of services is required for two basic reasons. First, when a continuum does not exist, then placement decisions are frequently made on the basis of what the school offers, instead of being based on the individual needs of the student. Second, if gaps exist in the continuum of services, it is highly probable that a student will remain in a more restrictive setting because a slightly less restrictive alternative does not exist.

There has been some debate as to whether correctional institutions can meet this requirement by providing a continuum of placements within the correctional setting. However, some correctional systems have tried to address this issue in a number of ways. One way has involved providing instruction in regular correctional education classes, resource rooms, self-contained special classes, as well as one-on-one instruction for those in "lock-up" or "isolation." This could be equated with the public school's practice of providing homebound instruction. Additionally, some states have interagency agreements whereby local education agencies provide for specialized services that are not available in the institution. For example, in the case of a deaf juvenile offender in North Carolina, the student is transported between the correctional institution and the nearby state school for the deaf in order to receive appropriate services. Other states have also established special prison units for mentally retarded offenders. These units are frequently located on the same grounds but enable the agency to provide a more appropriate placement. These specialized units are the equivalent to special school placements provided through the local education agencies (LEAs).

6.6.2 After the student's strengths and weaknesses have been identified and goals developed, several other factors must be taken into consideration when deciding where they should be placed along that continuum of services. To begin with, the student's educational placement must be as close as possible to his/her home. Except in cases where the IEP requires another arrangement, the student should be educated in the school which s/he would attend if not handicapped. When placement outside the regular school is being contemplated, consideration must be given to any potentially harmful effect that might result from such a placement. Additionally, placement decisions should be made on an individual basis and not on the basis of a label. In other words, if a student is labeled as deaf or emotionally disturbed, then a regular class placement must not automatically be ruled out. Likewise, all students within a particular handicapping category should not be automatically assigned the same placement option.

6.6.3 As previously mentioned, parents must give permission before a student can initially be placed in special education. After initial placement, parental permission is not required when the placement is to be changed. However, the local education agency (LEA) must follow the due process procedures (notice and hearing) stipulated in 94-142 and adhere to several other procedural safeguards. If the LEA wishes to change the placement of a student then s/he must be completely reevaluated and another IEP meeting must be held. Parents have a

right to request a hearing when they are not in agreement with either the proposed or the present placement.

What constitutes a change in placement has been the topic of much discussion and the central issue in several law suits. As a result, some basic parameters have been delineated. First, an LEA can move the location of a program or classroom without it being considered a change in placement for the student enrolled in the program. Only the physical location has changed and not the program itself. However, any significant change in the program or services provided a student would constitute a change in placement. If a student is attending a resource room for half of the day, minor adjustments can be made in the amount of time spent in the special class. However, if the student were placed back into the regular classroom for most of the day and received only consultant services, then it probably would be considered a change in placement. The school would then be required to notify the parents of the proposed change.

The courts have also ruled that when a handicapped student is expelled or suspended for misconduct, it may also constitute a change in placement. The rule of thumb seems to be that if the suspensions are more than eight to ten days in length and/or they occur repeatedly, then it is considered a change in placement. The rationale for this interpretation is that if a handicapped student is continually removed from the special education program, their program is being significantly changed. Another argument is that if a student is repeatedly suspended for misconduct, then the appropriateness of the program must be questioned. If the handicapped student is unable to function in that setting then it must not be the least restrictive environment for the student.

This is not to say that a handicapped student cannot be removed from a placement when s/he is a danger to self or others. In such cases, immediate removal is appropriate and not considered a change in placement, unless removal is to last more than eight to ten days. It would however, require that minimum due process (notice and right to be heard) be provided. If it is necessary to continue to exclude the student for reasons of safety, then homebound instruction should be provided when exclusion lasts for more than ten days. Additionally, the LEA must treat this as a change in placement and follow the procedures previously mentioned.

This is similar to what should occur when an inmate is sent to "lock-up" or "isolation." If it means that s/he will be removed from their special education program for an extended period of time, then "homebound" (i.e.,

provided in the restricted setting) instruction should be provided. However, there are times when it is clearly not feasible to provide these services. When an inmate is extremely violent or assaultive, etc., or unwilling to cooperate, it is not reasonable to expect these requirements be met. Due to the nature of the correctional setting, the notification and hearing requirements would not be applicable, since removal is usually a custody issue and not an educational one. If an inmate's placement was changed based on an educational decision, then it would be subject to the notice, hearing, and reevaluation requirements.

6.6.4 In the event that a hearing is scheduled, the law requires that the student remain in the present placement until a decision is reached by the hearing officer. There have only been four situations in which the courts have upheld unilateral placement decisions made by the parents. In the first instance, the public school program was patently inappropriate and in another students had been evaluated and a considerable amount of time had elapsed with the students on a waiting list with no services being provided. Finally, the courts have upheld unilateral placements when the parents removed a student from a placement which was clearly detrimental to their child's emotional well-being or when their child was in physical danger.

6.7 Least Restrictive Environment (LRE)

What is meant by the term 'least restrictive environment'?

Can you equate 'least restrictive environment' with the term 'mainstream'?

Why is the 'least restrictive environment' provision one of the hardest requirements for corrections to meet?

(Display T-11)

When placement decisions are made they must not only meet the standards of 'appropriateness', but also be made in accordance with the least restrictive environment (LRE) policy outlined in PL 94-142. First, consideration must be given to whether a particular program is 'appropriate' for meeting the educational needs of the handicapped student. Once an appropriate individualized education program has been developed, the least restrictive environment (LRE) where the program can be provided must then be determined.

This requirement has also been the center of much debate and misunderstanding. Basically, the law states that when special education services are to be provided to a handicapped student, they should be provided in the least restrictive environment. In other words, separate schooling or other removal from the regular classroom should not occur, unless the nature or

severity of the handicap is such that education in the regular classroom cannot be satisfactorily achieved.

6.7.1 The concept of least restrictive environment has frequently been confused with the concept of mainstreaming. Mainstreaming is the placing of handicapped students in "mainstream" settings such as regular classrooms, group homes, and other community programs. However, a mainstream setting may not be the least restrictive placement for a particular student. If that student is severely emotionally disturbed, then the setting where s/he might best function and achieve certain academic and behavioral goals may actually be a residential school or a self-contained classroom in a public school. The law does not require that all students be placed in mainstreamed settings, but the LRE requirement must be met by ensuring that to the maximum extent appropriate, handicapped students are educated with the nonhandicapped.

6.7.2 Aside from the confusion between the terms mainstreaming and least restrictive environment, you cannot simply describe the continuum of services in a linear fashion. Labeling one end of the continuum as most restrictive and the other as least restrictive sometimes confuses the issue of what is truly the LRE for a given student (Martin, 1980). Within each placement option, there are a number of variables that can make it more or less restrictive. For example, in considering placement for a trainable mentally retarded student, an IEP team may have narrowed their choice to two options. The first is a public school classroom which would provide instruction in the needed academic, social, and vocational skills. The second option might be a special school that provides the same types of instruction but also has a sheltered workshop in conjunction with the classroom instruction. The first option may appear to be less restrictive because it is in a public school setting. However, the second option will eventually result in more mainstream integration, since if the student learns to perform in a workshop setting, then s/he is more likely to be integrated into the mainstream of society.

This example illustrates the central point that placement decisions must be made on an individual basis. Otherwise, the least restrictive environment requirement cannot be met.

6.7.3 In addition, the provision of nonacademic and extra-curricular services and activities is also bound by the LRE requirement. Section 121a.553 states that nonacademic services (e.g., meals, recess, etc.) are to be provided in as integrated a setting as possible.

6.7.4 The LRE provision may be one of the most difficult requirements for correctional institutions to meet when there are no special schools or facilities for handicapped inmates. While the institution may provide a continuum of services, if that continuum has gaps in it then an inmate may be placed in an environment that is actually more restrictive. When mentally retarded offenders are fully integrated into the "mainstream" of prison life, it may be impossible to provide them with the kind of structure and educational experiences (or protection from abuse) needed in order for them to attain certain goals. In this instance, the mainstream would not meet the LRE requirements, while a special school or facility might provide the least restrictive environment in which the inmate can benefit from special education services.

6.7.5 As you can see, the LRE requirement is an integral part of all placement decisions. Additionally, all placement decisions should ultimately be based on determination of what is an appropriate program and whether it can be provided in that placement.

(Display T-12)

SUMMARY:

As we have seen, the overall process for providing handicapped students with a free and appropriate public education begins with the referral stage. Once a student has been referred, then parent permission for testing must be obtained. If the parents cannot be located, or do not wish to participate on behalf of their child, a surrogate parent must be appointed to advocate for the student.

An evaluation by a multidisciplinary team is then completed and eligibility for services determined. Parents are then invited to participate in the development of the individualized educational program. Members of the evaluation team, classroom teachers, parents, and other support personnel then plan the IEP.

The IEP document must contain:

-- statements regarding the student's present level of functioning, highlighting both specific strengths and weaknesses.

-- subject areas in which special education is to be provided.

-- long and short term objectives, including evaluation criteria, for mastery of skills in each of the subject areas indicated.

-- a statement indicating the setting where instruction will be provided and the extent to which the student will participate in regular education.

-- who is responsible for the instruction and the expected length of services.

7.0 DUE PROCESS PROCEDURES

What are the notification and consent requirements stipulated in PL 94-142?

What type of notification must be sent to a parent?

What happens when a parent does not give their consent?

(Display T-13)

A brief description of the due process procedures required at different junctures within the referral, evaluation and placement process has already been provided. The law, however, is very explicit in its requirements.

7.1 Section 121a.504 of the regulations requires both prior notice and parent consent. Any time a public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student, they must provide written notice to the parents. Such a notice should be provided at a reasonable time prior to the proposed action and should contain the following elements:

7.1.1 First, it should contain a full explanation of all of the procedural safeguards available to parents under Subpart E of the regulations.

7.1.2 Second, a description of the action proposed or refused by the agency, and an explanation of why, should also be included. The agency must also provide a description of any options considered and why those actions were rejected.

7.1.3 Third, each evaluation procedure, test, record, or report which served as the basis for the agency's action is to be described in the written notice, along with any other factors which were relevant to the decision.

7.1.4 Fourth, the law stipulates that the notice must be written in language understandable to the general public, and provided in the parent's native language or other mode of communication used by the parent. When the native language or other mode of communication of the parent is not a written language, then the notice must be translated orally or by other means. It is the responsibility of the public agency to insure that the parent understands the content of the notice and they must document in writing their attempt to fulfill the requirements of this section.

7.2 PL 94-142 also requires that parental consent be obtained before conducting a preplacement evaluation and before initial placement into special education. However, after initial placement, further changes in a student's program do not

require parental consent, but do require prior notice.

7.2.1 To fulfill the consent requirement, the parent must have been fully informed of all information relevant to the proposed activity. Again, this information has to be provided in their native language or other mode of communication. The parent must agree in writing and the written notice should describe the action for which consent is sought. Written consent must also be given when records are to be released and the consent should indicate who will receive copies. Finally, the parent is to understand that consent is voluntary and can be revoked at any time.

7.2.2 When a parent refuses consent, several alternatives are available to the agency. If the state law requires parental consent before evaluation or initial placement, then the state procedures govern the overriding of a parent's refusal to consent. However, if there is no state law requiring such consent, then the public agency may use the due process hearing procedure outlined in Sec. 121a.510-513. If the hearing officer rules in favor of the agency, the latter may evaluate or provide services to the student without parental consent. However in such circumstances, the provision of services is still subject to the parents' consent under Section 121a.510-513.

7.3 Records

What rights do parents have in accessing their child's educational records?

Can parents amend the records when they disagree with information contained in the file?

Is there a timeline that must be followed when allowing parents access to records?

The passage of The Family Educational Rights and Privacy Act (PL 93-380) in 1974 established the rights of parents to have access to their child's educational records and to restrict the access of others. The Privacy Act, commonly referred to as the 'Buckley Amendment,' delineated procedures for reviewing and inspecting of educational records, amendment of records, and the disclosure of personally identifiable information kept in educational records. These provisions were also incorporated into the implementing regulations for PL 94-142.

7.3.1 The agency, upon request, must provide the parents with a list of the types and locations of education records that they maintain. Under the regulations parents have the right to inspect and review their child's educational records and to have those records explained and their representative(s) to inspect and review their child's records. Agencies are also required to provide a copy

of the records when requested. If access is requested, the agency must comply without unnecessary delay and before any IEP meeting or hearing may be held on the student. The maximum time allowed is 45 days between issuing of the request and granting access.

7.3.2 If parents feel that any part of the information contained in their child's records is inaccurate or misleading or in violation of the student's rights, they may request that the records be amended. When an amendment request is received, the agency must make a decision within a reasonable amount of time and inform the parents of its decision. If the agency chooses not to amend the records, then it must notify the parents of its decision and advise the parents of their right to a hearing.

7.3.3 When a parent requests, the agency must provide them an opportunity for a hearing regarding their child's records. If, following a hearing, the agency decides that the information challenged by the parents is in fact inaccurate, misleading, or otherwise in violation of the student's rights, then the agency must amend the records. However, if the agency decides that the information in question is accurate, it must inform the parents of their right to a rebuttal. The parents may then prepare a statement presenting their comments and reasons for disagreement.

Any time that parents place a letter of explanation in their child's records, that letter must remain in the file as long as the contested portion is maintained by the agency. Furthermore, any time that the agency discloses the contested portion of the record, they must also provide the party with a copy of the parent's statement.

7.3.4 In addition to the parent's right to access records, they may also limit the access of others. Parental consent must be obtained prior to any disclosure of personally identifiable information. Only officials of the agency maintaining the files may access the information without prior parental consent.

7.3.5 Finally, the agency must notify the parents when the confidential records they have maintained on a child are no longer needed for the provision of educational services. Parents may then request that the records be destroyed.

7.4 Hearing

When are the parents entitled to a hearing?

When a hearing is initiated, what information must the educational agency provide the parents?

Who conducts the hearing?

Are there any timelines for conducting hearings?

Can you appeal a hearing decision?

Aside from the notice and consent requirements, the law stipulates that parents have the right to be heard. At the minimum, it means that parents have a right to meet with representatives of the local education agency (LEA) or the school to discuss the changes explained in their notice. Furthermore, any time that a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student, the parent has the right to an impartial due process hearing if they disagree with the school district's decision. A request for a due process hearing should be dated and submitted in writing to the LEA.

When a due process hearing involving oral arguments is requested, it must be conducted at a time and place which is reasonably convenient to the parents and student involved. Furthermore, a hearing must be conducted by the state education agency (SEA) or the local education agency directly responsible for the education of the student. Who is to conduct the hearing is determined by state statute, state legislation, or a policy written by the SEA.

7.4.1 Some states have implemented an intermediate step by providing mediation prior to conducting a formal due process hearing. This is not required by federal law, but state education agencies (SEAs) may find it beneficial in resolving differences between agencies and parents and in reducing the development of adversarial relationships that are counterproductive. However, SEAs must be careful to ensure that mediation is not used to deny or delay a parent's rights under 94-142.

7.4.2 When the LEA or the parents initiate a hearing, the public agency is to inform the parent of any free or low-cost legal services available. This would also include information regarding any groups or individuals that might assist the parent in advocating for their child. Aside from counsel, any party to a hearing also has a right to be advised and/or accompanied by individuals who have knowledge or training with respect to the problems of the handicapped.

7.4.3 Once a hearing is initiated, it must be conducted by a person who is not an employee of a public agency which is involved in the education or care of the student. Additionally, the hearing officer must not have a personal interest which would conflict with their objectivity in the hearing.

Each public agency is required to keep a list of the persons who serve as hearing officers, including a description of their qualifications. While there is some variation among states as to who can serve as hearing officers, most states provide specialized training and only those who have completed the training may serve as hearing officers. Likewise, other states require only that the person be knowledgable in the law or knowledgable about handicaps.

7.4.4 The tone of a due process hearing varies greatly across the states. Some states hold very informal hearings, while others require lawyers as hearing officers and use formal rules of evidence. However, all hearings must basically provide the parties a chance to present evidence and confront, cross-examine, and compel the attendance of witnesses. In addition, parties are prohibited from introducing evidence that has not been disclosed to the other party at least five days prior to the hearing. Parents also have the right to open the hearing to the public and to have their child present during the proceedings.

Following the hearing, the parties are entitled to a written or electronic verbatim record of the proceeding.

7.4.5 When a due process hearing is requested, it must be held and a decision rendered within 45 days of the date of request. As soon as a decision is reached, both parties are entitled to a written report of the findings of fact and of the decisions made. The pulbic agency is then required to delete any personally identifiable information and transmit the findings and decisions to the state advisory panel.

7.4.6 Unless the public agency and the parents agree otherwise, the student is expected to remain in his/her current placement pending the outcome of the hearing or judicial proceedings. However, if the complaint involves an application for initial admission to a public school, and if the parents agree, the student can be placed in the public school program pending completion of the proceedings.

This does not preclude the agency from temporarily removing students who are endangering themselves or others.

7.4.7 When a hearing is conducted by the local education agency, either party may appeal to the state education agency (SEA) if they object to the findings and decisions of the hearing officer. The SEA must then conduct an impartial review of the hearing.

The state level hearing officer must examine the entire hearing record to insure that the required procedures for due process have been met. They may also seek

additional evidence or conduct a hearing to gather the needed information. Whether or not the parties are afforded an opportunity to present oral and/or written arguments is up to the discretion of the reviewing officer. However, if the reviewing official decides to hold a hearing to gather further evidence, then all the other hearings rights guaranteed under Section 121a.506 are also applicable.

Upon completion of the review, the state hearing officer must make an independent decision. A written copy of that decision and the findings of fact must then be provided to each party involved. When a state level review is held, a decision must be rendered within 30 days, as compared to the 45 day time limit at the local level.

Furthermore, any decision made by a reviewing official is considered final, unless a party brings a civil action under Section 121a.615(e)(2) of the Act.

If the agency directly responsible for the education of the student is the state education agency, then the parties would go straight to a state level hearing. This would occur if a student is attending a program (i.e., state school for the deaf, a state training school, or correctional facility), which in accordance with state law, falls under the direct supervision of the state education agency. In these instances, a hearing request would result in a state level hearing. Once the state level hearing was completed, the parties would have exhausted the administrative remedies provided under PL 94-142. Either party could then appeal by filing a civil action in court.

7.5 Other Remedies

Aside from a due process hearing, are there other procedures for filing complaints?

When can a complaint be taken into court?

If a case goes to court, can damages be awarded?

7.5.1 Under 94-142 and Section 504, there are three other administrative remedies available besides the due process hearing. Section 121a.602 of PL 94-142 gives anyone, not just the representative of a handicapped child, the right to file a complaint with the state education agency. The agency must then investigate and report its findings. An advantage of this process is that it is relatively inexpensive, while a disadvantage is that it may not produce results. The state agency may not investigate fully or may require only a minimal remedy for noncompliance (Martin, 1980).

7.5.2 Section 504 provides two additional remedies: a grievance coordinator and an Office of Civil Rights complaint. The grievance coordinator made available through the school district must be a person who is capable of being impartial and hearing the parent's grievance. If the parties are not satisfied with the services of the grievance coordinator, they may file a complaint with the Office of Civil Rights (OCR) in Washington, D.C.

7.5.3 When a complaint is filed with OCR, they will conduct an investigation and if noncompliance is found, will issue an order to remedy the situation. The remedy stipulated may range from requiring the agency at fault to sign a letter assuring that the infraction will not occur again to requiring that the parents be reimbursed. When OCR is unable to secure voluntary compliance, they may refer the case for litigation or recommend that federal monies be withheld from the agency at fault. An OCR remedy has the advantage of being inexpensive, since it does not require a lawyer. However, the major disadvantage is that it may take quite a while for OCR to investigate and if they miss some of the important issues, the complaintant is powerless to correct the situation.

7.5.4 Once a party has exhausted administrative remedies through local and state level due process hearings, s/he may file a civil suit in court under PL 94-142. At this point, the party may choose to take the case into either a state or federal court.

Whichever system is chosen, the party must take the case through the various levels of appeal within that system. When a case is taken into federal court, it will be tried first in a district court, then if appealed it will be taken to a circuit court, and finally to the U.S. Supreme Court. If the case enters the state court system, then it would move from the lower level court to the appellate court and then to the State Supreme Court. Only after an appeal had been lost at the State Supreme Court level could the case be heard by the U.S. Supreme Court.

In the past, most cases involving handicapped students have been filed in federal court and, whenever possible, have been brought under both PL 94-142 and Section 504 of the Rehabilitation Act. This has occurred for several reasons. First, federal courts traditionally have been more sympathetic to civil rights cases than have state courts. Second, under Section 504, parties are allowed to collect damages and are not required to exhaust administrative remedies before going to court (i.e., they are not required to meet with the grievance counselor, nor are they required to file a complaint with the Office of Civil Rights).

However, in 1984 the Supreme Court ruled in Smith v. Robinson that parents could not win legal fees for similar claims filed simultaneously under Section 504 and PL 94-142. The court decided that since 94-142 was more comprehensive and specifically addressed procedures to protect the educational rights of handicapped students, then educational claims must be brought under 94-142 instead of Section 504. However, since PL 94-142 does not specify the awarding of attorney's fees, parents must bear the costs of litigation, even when they prevail in court. Currently, there are several bills before Congress which propose to amend PL 94-142 to include the provision of attorney's fees.

7.5.5 Once a case is in court, there are basically three types of damages that can be awarded: restitution, compensatory, and punitive. Restitution reimburses parties for out of pocket costs that they should not have incurred, while compensatory damages are awarded for pain and suffering. Punitive damages are awarded for purposes of punishment, usually with the intention of preventing the current offense from happening to a large number of others.

Although the courts so far have not allowed punitive damages to be awarded under PL 94-142, some courts have indicated that compensatory damages might be allowed. However, as in Won v. Department of Education in Hawaii and Campbell v. Talledega County Board of Education, dollar amounts have not usually been assessed, but students have been awarded additional restitution in some cases (i.e., Tatro v. Texas and Anderson v. Thompson).

Restitution has been allowed in cases where a child's health was endangered if the service was not provided (e.g., when the child needed catheterization) and when in the absence of self-help the mental health of the handicapped student was endangered. In the latter case, if the parents had not removed their child from a patently inappropriate placement, the student's mental health would have been endangered.

It has also been awarded when the parents have not been informed of any rights or possibilities.

7.5.6 When litigation is brought under Section 504, the court may additionally award attorney's fees. For example: in Jose P. v. Hornback the parents were awarded $140,000 in fees; around $100,000 was awarded to the New Mexico Association for Retarded Citizens in their case against the State of New Mexico; and $24,000 was awarded in the Tatro case (Martin, 1980).

8.0 RELATIONSHIP BETWEEN SECTION 504 AND PL 94-142

How are the two laws alike?

How are they different?

While Section 504 of the Rehabilitation Act of 1973 and PL 94-142 share much of the same language in mandating a free and appropriate public education for all handicapped students, there are several important distinctions between the two pieces of legislation. First, PL 94-142 appropriates federal monies to help fund the excess costs of educating handicapped persons in those states which are in compliance with its regulations. However, the only monies authorized under 504 were to make buildings accessible to the handicapped. In addition, compliance with PL 94-142 is discretionary and states not wishing to accept these funds are not bound by its requirements. However, any agency receiving federal monies must comply with Section 504, which prohibits discrimination against the handicapped. An example of this is found in the New Mexico Association for Retarded Citizens v. the State of New Mexico case. In 1979, the state of New Mexico had chosen not to comply with the implementing regulations and not to apply for monies available under PL 94-142. The New Mexico Association for Retarded Citizens then brought suit, charging the state with discrimination against the handicapped. Basically, the court ruled that the state was not obligated to apply for 94-142 funds, but the state was still required to meet the nondiscrimination requirements of Section 504. So, while states may choose not to apply for 94-142 funds, they are still bound by Section 504, which prohibits discrimination against the handicapped and employs language almost identical to 94-142 in guaranteeing a free appropriate public education for the handicapped.

Another difference between the two laws is that Section 504 is much broader, encompassing all handicapped persons, regardless of age, and it contains broader definitions of handicapping conditions. PL 94-142 applies to all handicapped persons between the ages of 3 and 21. However, the age ranges from 3-5 and 18-21 do not apply in instances where the state does not provide public education to any or all of those age groups.

The sanctions, which can be applied for noncompliance with the two laws, are also different. Under 94-142, the Secretary of Education may cut off funding for a state and its local programs under Part A of the Education for all Handicapped Children Act, The Elementary and Secondary Education Act, and the Vocational Education Act, etc. When states fail to comply with Section 504, all health, education, and welfare funds to a state or locality may be cut off, thus having a more far reaching effect.

Furthermore, 504 does not require that IEPs be written. It does require that education be designed to meet the individual needs of a handicapped person, but recognized the IEP as one of several ways that the requirement can be met.

Additionally, the two laws differ in the complaint procedures available to handicapped individuals. With 94-142, disagreements are supposed to be handled first through a due process hearing, moving to a state level review, and then to court if necessary. There have been a few instances when the court has allowed a case to proceed without going to a hearing first, but these exceptions are allowed only under extreme conditions. However, 504 does not require that administrative remedies be exhausted before filing suit in court. Furthermore, once a case has gone into court, attorneys' fees can be awarded under 504, but not under 94-142.

9.0 IMPLEMENTATION ISSUES

What are some of the problems encountered when implementing PL 94-142 in correctional settings?

What approaches have been taken by correctional facilities when implementing these regulations?

(Display T-15 - Review/compare with T-12)

9.1 Overview of the Special Education Process in Corrections

Although great variation exists in the educational classification procedures employed by the states, the process used in Maryland is fairly typical and will be used to illustrate the special education process that occurs in many correctional systems.

In Maryland, as in many states, all inmates are first sent to a reception, diagnostic and classification center. This center has established an Admissions, Referral, and Dismissal (ARD) team in accordance with state and federal law. The ARD team is comprised of: a chairperson who is designated by the Director of Correctional Education, a designee of the local educational supervisor, a special educator, a social worker, a psychologist, and diagnostician (educational assessor). Other specialists may also be included when needed.

It is the responsibility of the ARD team to review screening and assessment data, and to verify the existence or non-existence of a handicapping condition. Within a week of referral for assessment, the staff, after first securing parent/inmate permission, must contact the LEA and request the student's educational records. This information must then be considered when assessing the student. If a student qualifies as handicapped, the team will make recommendations for placement at an institution where the appropriate assessment process is then forwarded to the receiving institution. Notification is also sent to the ARD team in the receiving institution to inform them of the student's need for an IEP.

The screening procedure is to be completed within 30 days of commitment. A full assessment is then completed within 45 days of initial screening. In other words, it may take up to 75 days for a handicapped inmate to be screened and assessed. Following assessment, an ARD meeting must be held at the diagnostic center within 30 days, thus allowing a possible 105 days from entry until the first ARD meeting.

As previously mentioned, each receiving institution also has ARD teams to process inmates once they are assigned to an institution. These ARD teams are comprised of the following members: a chairperson who is designated by the director of correctional education, a designee of the local educational supervisor, a special education teacher responsible for instruction of the students, an institutinal psychologist, and the supervisor of classification at the institution. It is the responsibility of this team to review data forwarded by the ARD team at the diagnostic center. They are also charged with the responsibility of revieving screening requests that originate in their institution or another institution when that student is being transferred to their custody.

After revieving assessment data, the ARD team at the receiving institution will develop and implement an IEP for the student. Following implementation, they will monitor the student's program and write a report to the parents once the program has been implemented for 60 school days.

Basically, an IEP must be written and implemented by the receiving institution within 30 school days of the ARD meeting held at the diagnostic center. IEP meetings are held in accordance with 94-142 regulations and parent participation is encouraged. A review of the program must be conducted within 60 days of the implementation of the IEP and a parent report written within 10 school days of the IEP review. This means that an IEP would be implemented within approximately 177 days (5 to 6 months) from the date of commitment.
(Display T-16)

9.2 Correctional institutions have encountered many difficulties in trying to implement PL 94-142. In a global sense, some of those difficulties stem from the way the legislation is written, while others are the result of the design of correctional systems.

PL 94-142 was designed to accommodate a public school service delivery model and when we try to mesh that with what exists in correctional education, it becomes difficult to satisfy the demands of both systems. Often, priorities within the two systems are at odds. Under 94-142, we are expected to make decisions based on what is an appropriate educational program for a particular student and then decide what is the least restrictive environment in which that program can be provided. However, in corrections, responsibilities and priorities are different, with custody concerns taking precedence. Thus, the

needs of the individual may be sacrificed for the needs and requirements of the institution or public safety.

The implementation of PL 94-142 is often inhibited by the design of the correctional system itself. In some states, the correctional institution is under the jurisdiction of the department of corrections, while the educational programs are provided through the local education agency (LEA). In others, correctional education programs are considered an LEA under the administration of the state education agency. Additionally, some states have formed a separate agency, such as the Rehabilitative School Authority in Virginia, to administer correctional programs. Further confusion arises when some juveniles are incarcerated in adult institutions, while others are in state training schools under the jurisdiction of a department of mental health. When several systems each have partial responsibility for adjudicated handicapped students, the programs may overlap and compete with each other (Keilitz, 1984). However, when educational programs fall totally under the perview of the corrections department, they may suffer as a result of having to compete with other programs for limited correctional funds. There are no easy solutions to these problems, but correctional education will have to address these issues if compliance with 94-142 and Section 504 is ever to be a reality.

9.3 Previously we have discussed the identification, evaluation, and placement process as delineated under 94-142. At each step of this process there are potential problems for the correctional setting.

As we mentioned, there are three ways in which students are referred: through the screening process, by parents, and by teachers. In corrections, referral may be hampered by the particular screening methods employed. In many correctional facilities, the initial identification and evaluation activities are merged into an over all diagnostic intake process. This intake is frequently the only formalized individual evaluation, and not followed-up by more indepth procedures. Sometimes, educational screening is not a part of the classification process, and even when it is, it may not be completed by a qualified educational diagnostician/psychologist.

The screening process may also allow some handicapped individuals to go unnoticed. Some states use a cut off score of 5th grade level on the reading portion of the Wide Range Achievement Test (WRAT). Any inmate scoring above that is automatically excluded from special education testing. However, a 17-year-old student with an average IQ and a 5th grade reading level could probably qualify as handicapped under 94-142.

Parent referrals in corrections is almost non-existent. Hockenberry (1980) suggests that parents should notify the local education agency when their child is being considered for placement in the correctional system, so that all parties directly involved with the provision of services to that student

can have input before the court takes action. This is probably not going to take place for several reasons. Parents are often embarrassed by the fact that their child is in trouble with the law and as a result may not want to disclose this information to the school. This is especially true when they may be worried about confidentiality, teacher bias, and other factors. Moreover, many of these parents have not taken an active interest in their child's educational program while the child attended public school, and now that the student will be even more removed, they may be even less inclined to actively seek services.

A better solution might be to educate juvenile justice personnel to be alerted to the possibility that a client might be handicapped and in need of special services. They could then request that parents sign a consent form allowing them access to educational records. If there was more sharing of information between agencies prior to adjudication as well as after incarceration, handicapped students could be better served.

9.4 We have already touched lightly on some of the problems inherent in the evaluation process. To reiterate, some of the tests used may not be appropriate measures of a student's ability and may reflect cultural biases. Furthermore, when evaluation takes place within the first few weeks of incarceration, the results may not be very accurate for other reasons. IQ scores may be depressed due to the stress or anxiety that the inmate may be experiencing. Or, if a student has previously been assessed for special education and corrections is not aware of the tests employed in that evaluation, the student's scores might be inflated due to test practice.

9.5 Eligibility categories under 94-142 may not be inclusive enough to adequately serve correctional populations. Some inmates have problems that need to be addressed through individual education programs, yet they do not qualify under 94-142. The exclusionary clauses found in 94-142 definitions can have a confounding effect on the diagnosis and classification of low socio-economic students (Keilitz, 1984). For instance, the law excludes learning problems which are caused "primarily by... environmental, cultural, or economic disadvantage." However, it is hard to determine which came first, as they are often interrelated.

Some states have added categories to ensure appropriate services to inmates who might not otherwise qualify. New York has added the classification of "victim-prone" and "predatory" to those delineated under federal law. Victim-prone means that the inmate exhibits a significant inability to cope with real or perceived threats within the environment. It may be associated with emotional disorders and can include suicidal behavior and self-injury. Predatory means that the inmate displays a pattern of behavior marked by extreme assaultiveness or manipulativeness. Individuals who have committed sex offenses and/or extreme acts of violence, cruelty, torture, or sadistic crimes can be included in this category. Some of

these individuals may not qualify as emotionally disturbed because of the clause requiring the behavior to be exhibited to a marked degree and over an extended period of time. Others, such as those who are extremely manipulative, would not qualify, and yet if we are to attempt to rehabilitate them, these specific problems must be addressed.

9.6 IEP development and implementation may also present problems in the correctional setting. Interagency agreements at the state level are critical for insuring that the continuum of services will be available for inmates. However, Grosenick and Huntze (1980) examined interagency agreements and found great variation in the amount of detail that states have included in these agreements. Furthermore, most of the agreements that exist are generally between education and corrections. More agreements between mental health and public health agencies need to be implemented in order to better coordinate services to families and inmates.

Additional problems in IEP development arise when the assessment is completed by one team of individuals and the program is developed by an entirely different team. The whole special education process in corrections might be accelerated if the evaluating team developed an IEP before referring the student to the receiving institution. In that way, they could also be more assured that the student would be placed where the appropriate educational and related services could be provided. This would possibly decrease the chances that an IEP developed at the receiving institution would include only those services currently available in their program.

IEP development and implementation is also hampered by the lack of communication between local education agencies (LEAs) and the correctional system, both before and after the period of incarceration. Many of the students who enter the correctional system already have an IEP developed and in place in their local school system. If that information were to be communicated to the correctional institution in a timely fashion, a program could be implemented without undue delay. Likewise, if information were communicated back to the school district when the inmate was ready to be released, a transition back into the community-based programs could be more readily achieved. To facilitate this communication between education agencies, some states are going to state-wide computerized IEPs. In this way, the receiving school could have ready access to special education records maintained by another LEA. This system has the potential to speed up the delivery of services to handicapped students when they move to a different district, or into a different system (i.e., correctional, mental health). As mentioned before, the delay between the initial assessment and classification of a student and the provision of services is often a severe problem in corrections. It is unfortunate that much of a student's time in institutional care is spent between being assessed and waiting to be served.

9.7 Probably one of the most difficult areas in trying to implement 94-142 in a correctional setting lies in the due process procedures outlined in the law. To begin with, many correctional facilities have used existing institution-wide offender grievance procedures instead of developing separate due process procedures for 94-142 issues. As a result, the procedural safeguards may be insufficiently detailed and inadequate. Procedures may not provide the inmate with the opportunity to examine special education records or to request an independent evaluation and they may fail to adequately inform inmates of their rights under PL 94-142. In addition, persons normally conducting the institution-wide grievance hearings may not be familiar with PL 94-142 and its requirements, and thereby inadvertently deny an inmate their rights.

Additionally, it is often impossible to get the parents to participate in the development of the IEP. Sometimes parents, although interested, are unable to commute the great distances from their home to the correctional institution in order to participate in the meetings. At other times, it may be hard to even locate the parent to notify them and obtain their informed consent. Correctional institutions also have a problem in meeting timelines when parents are hard to find or do not respond to contact initiated by the institution.

Several alternative solutions are being implemented to combat these problems. In both Maryland and Virginia, as well as in some other states, students who are 18 years of age are considered adults and can sign for themselves at IEP meetings. However, in states such as Missouri, the state has obtained an administrative ruling that declares all inmates in adult facilities to be emancipated adults. Under these rulings, the student is then accorded all the rights and procedural safeguards previously granted to the parents.

In some instances it is necessary to appoint a surrogate parent. If the parents are unwilling to participate or consent to the development of a special education program, the state must appoint a surrogate parent when: (a) a student is not considered an adult or (b) is over the age of 18 but handicapped to the extent that they may not be able to protect their own interests. However, the appointment of a surrogate parent in itself may pose problems. Interpretations of state law governing wardship and custody, as well as security considerations, directly effect such decisions. Gerry (1980) reported that in many instances, correctional education programs use officials of the correctional facility. This practice could call into question the whole issue of whether an employee of the institution can adequately advocate for services that their employer is unwilling or currently unable to provide.

In Mattie T. v. Holiday the court issued guidelines which have since been adopted by other states. Under these guidelines, surrogates must be appointed when the student has been placed in the legal custody of a public agency or when parents are unwilling or unable to act on behalf of their handicapped

child. If a student is living in an institution, group home, or other residential facility, but has not been placed by a court in the legal custody of a public agency, then the agency must document at least three attempts to contact the parents and solicit their participation in the special education process. If parents fail to respond to these contacts, or if parents fail to attend at least two IEP meetings that have been scheduled for mutually agreed upon dates, then the agency should appoint a surrogate parent.

When the agency proposes to appoint a surrogate, the agency must notify the parents in writing. The written notice must also inform the parents that the surrogate is appointed solely for the purpose of representing the handicapped student in the special education process. Parents retain the right to represent their child at any time they choose to become involved on their behalf. If the parents do not object in writing, then the agency may go ahead with the appointment.

The court also stipulated that surrogate parents should be drawn from associations of or for handicapped citizens or from other voluntary organizations. Additionally, surrogates should be competent to advocate for the student and not an employee of the agency responsible for the student's education or residential care. They should get to know the student personally to become familiar with their needs and, if possible, should be of the same race. The court also mandated that surrogate parents be formally trained to advocate for the student and that the process and method of training should be detailed in writing.

While some correctional systems have attempted to appoint surrogate parents, most have failed to meet the stringent guidelines established under Mattie T. Frequently, institutions maintain a pool of surrogates who are willing to advocate for incarcerated handicapped students. However, in many instances the advocate does not know the inmate personally and, therefore, may not be familiar with their particular educational needs. Additionally, while the surrogates may be interested in advocating for the handicapped individual, lack of training may inhibit this process.

SUMMARY:

There are many issues still to be resolved in implementing 94-142 requirements in correctional settings. There are however, many good attempts being made by states to meet these requirements and to help them to mesh with the structure of the correctional setting. As we look to the future, correctional education must continue to develop and implement better interagency agreements, improved timelines for the delivery of services, and enhanced educational service delivery models with increased support services.

10.0 WRITING IEPs

One of the most significant aspects of PL 94-142 is the requirement that individualized education programs be developed for each handicapped student served in special education programs. The IEP, as defined by PL 94-142, is a written statement describing the student's present level of educational performance, annual goals and short-term objectives, the services and instructional strategies to be provided to meet these objectives, conditions under which the services will be delivered (where, when, and by whom) and evaluation criteria.

Another significant aspect of PL 94-142 is the principle of placement of handicapped students in the least restrictive environment. Because of the principle of least restrictive environment, many handicapped students have been placed into the regular classroom from self-contained special classrooms or placed in a resource room setting which causes the student to spend a major portion of his/her school day in the regular classroom. Because handicapped are spending and will continue to spend a majority of their day in the regular classroom, the regular classroom teacher has been included among those individuals responsible for developing the IEP for a handicapped student. However, many teachers have not been made aware of this involvement and are often asked at the last minute to sign their names to the IEP as contributing members. Other times the classroom teacher has been asked to assist in developing IEPs. Unfortunately, no one has bothered to explain what an IEP consists of or to explain the expected role of the classroom teacher. This section is designed to provide the classroom teacher with an overview of the components of an IEP and provide practice in developing IEPs. Even though classroom teachers will normally not be asked to complete an entire IEP, an overview of how to develop IEPs will enhance opportunities for classroom teachers to provide meaningful input into the development of IEPs for handicapped students.

DEVELOPING THE IEP

Much has been written about the IEP development since PL 94-142 was signed into law. From these discussions we know that the IEP should be:

- specific
- comprehensive
- feasible
- practical
- flexible

In order to complete IEPs that have these characteristics, a look at the components of an IEP and suggestions for completing each component is needed.

10.1 Components of an IEP (Display T-17)

The following discussion of the components of an IEP will best

be understood if the reader will also review the IEP form (see Handout 1) as the information is read. It should be noted that the numbers for each component explanation will coincide with the same number of the IEP form.

10.1.1 Personal Information - The required personal information should be recorded in the appropriate space. Remember that precautions for the protection of the student's privacy must be followed.

10.1.2 IEP Committee - The name and position for each person who participates in the meeting must be recorded. The local educational agency shall insure that a representative of the local education agency, the student's teacher and/or special teacher, the student (when appropriate), and the parent(s) are included in the meeting.

10.1.3 Current Level of Educational Functioning - The present level of educational functioning should be included. Areas to be considered include academic achievement, social adaptations, pre-vocational skills, and self-help skills. More than one standardized test must be used to evaluate the child.

Morgan (1977) states: "When reviewing the assessment information which has been collected on a student, one should keep several principles in mind:

a. The main reason for assessing students is to be able to make better decisions about the character and direction of their instructional programs. It is a waste of the assessment if the information is merely used to justify a label or placement or if test scores take primacy over the real information offered by most evaluation instruments.

b. Generally, the more inferences and assumptions which are made about the performance of a child, the less certain we can be about developing an appropriate IEP. If tests are employed which use obtuse and ill-defined concepts and terminology, the persons developing the IEP will be at a distinct disadvantage.

c. Several misconceptions and weaknesses concerning standardized tests should be remembered: (a) standardized tests do not measure all skills involved in a subject area, (b) standardized test scores are not infallible due to reliability and validity problems, (c) all test scores contain a built-in measurement error, and (d) a battery of standardized achievement test scores does not provide a total picture of the student's current levels of educational performance.

It is recommended that the following types of assessment data be studied to yield information with the greatest potential for utility.

- functional levels of performance statements describing what the student can and cannot do.

- rate or strength of performance -- how well the student can perform certain tasks in terms of speed, accuracy, rate, etc.

- learning style -- how the student deals with problems and tasks -- how s/he learns best.

For translating these principles and recommendations into practice (i.e., actually summarizing the data on the IEP), the following list of "do's" and "don'ts" is provided.

- Do list specific skills the student has acquired or has yet to acquire.

  EXAMPLE: "Can add 2-place problems (no carrying)," or "Cannot count by 2's, 5's, or 10's."

- Do list the student's strengths as well as weaknesses.

  EXAMPLE: "Enjoys art activities, can multiply 2-digit numbers," or "Participates appropriately in classroom discussions."

- Do not include labels or other idiomatic jargon in describing the student.

  EXAMPLE: Avoid "Is hyperactive," "Borderline range of intelligence," "Brain-damage," or "Passive-aggressive personality disorder."

- Do not list results and scores.

  EXAMPLE: "Overall achievement - 2.2," "WISC Full Scale - 86," or "Psycholinguistic Age: 78," without listing skills the student has mastered and not mastered from teacher-made tests.

- Do avoid vague generalities which may be interpreted differently by various individuals.

  EXAMPLE: Avoid "Appears to be emotionally disturbed," "Particularly inattentive," "Avoids work," or "Limited language skills."

The most difficult part of following these recommendations is that, on most IEP forms, the space provided for describing the level of performance is typically quite small. The tendency, therefore, will be to resort to listing scores and several vague statements regarding current level of performance as a way of summarizing the data. This would be acceptable if on a larger, separate form the specific information outlined above is presented.

It is important that the current level of performance be stated in descriptive terms that are usable for planning the other steps of the IEP. If this first step in the IEP development process is imprecise and careless, the rest of the IEP will follow suit.

10.1.4 Annual goal statements - Prioritized goals must describe the educational performance that the student is to achieve by the end of the school year. These annual goals should be described by the educational assessment. Here teacher, administrator, consultant, parent, and, in some cases, student input is necessary to answer the question, "What should we really try to work on and achieve this year?" In addition, the comparative importance of each goal should be decided (i.e., the goals should be ranked in order of priority).

How will one know how much growth to expect in a single year? The answer is not simple. The collective 'clinical judgment' of the team will need to be exercised to arrive at mutually satisfactory goal statements. It will be important not to either overestimate or underestimate anticipated growth. It will also be important not to state too many goals for one student; conversely, it would be just as inappropriate to state too few goals. Probably, three to five goal statements per student would be the ideal situation.

Care should be taken by the team to insure that the difference between goals and objectives is clearly understood. Goals are broad, general statements of intended outcomes. They do not contain statements -- of conditions, behaviors, or criteria -- as do behavioral objectives. In addition, the IEP goal statement should be written in terms of the student's expected performance and not the teacher's, parent's, or program's expected performance. For example:

Student's expected performance: "Can take care of personal needs."
Teacher's expected performance: "Will be provided reading comprehension materials."

Additional examples of goal statements written in terms of the student's expected performance are provided below:

- can behave appropriately in social situations
- can read words from a basic sight-word list
- can work cooperatively
- can speak spontaneously
- can pay attention to learning tasks
- can follow directions

10.5.1 Instructional Objectives - The instructional objectives must act as a link between the current level of performance and annual goals. These objectives are to reflect the actual steps to be taken that will lead to attainment of annual goals. Instructional objectives, more commonly called behavioral or performance objectives, have three parts. The first part is identifying the terminal behavior by name. You must specify the kind of behavior or actions that will be accepted as evidence that the learner has achieved. Some examples are:

- Read work aloud
- Say sounds orally
- Write answers
- Point out letters
- Spell words aloud

The second part of the objective is describing the important conditions under which the behavior is expected to occur. Examples might include:

(a) Read words aloud in the third grade reader.

(b) When dictated a sentence, will write using correct punctuation.

(c) Write answers to two-digit plus two-digit addition problems when given a page of thirty problems.

(d) Spell words aloud when given words from dictation.

The third part is the criteria which describes how well the learner must perform to be considered acceptable. Examples include:

(a) Orally read passages from Decoding 'B' with 100% accuracy in one minute.

(b) When presented a page of compound words, will orally read 40 words per minute with no more than 2 errors.

(c) When given a page of 30 problems, write answers to two-digit plus two-digit addition problems within 10 minutes with 100% accuracy.

In summary, instructional objectives should contain three components: (a) specifying the terminal behavior that indicates when the student has achieved, (b) describing the important conditions under which the behavior will be expected to occur, and (c) stating the criteria for acceptable performance by describing how well the student must perform to be considered acceptable.

10.1.6 Criteria and Evaluation - This component of the IEP is concerned with the question, "When do we know the student has mastered the desired skills and has therefore met the instructional objectives stated under number five?" The method of measuring the skills to be taught is stated here. Will the student be required to make an oral response, point out something, write answers, read a book, etc? Examples could include:

- Read at the rate of 100 words per minute in a 2nd grade reader.
- Write answers at the rate of 60 per minute.
- Count the number of interactions with classmates.
- Compare pre and post scores on all measures.

This component guides the teacher in determining what evaluation procedures to develop. It also indirectly describes how the skill will look when the student performs it correctly or to criterion.
(Display T-18a and 18b for summarizing)

10.1.7 Educational Services to be Provided - (Display T-17 again)

a. & b. Services Required and Date Initiated - The types and length of time services will be required are recorded here. Services might include any or several of the following: resource room help, speech therapy, hearing program, vision program, reading, counseling, vocational development, etc.

c. Duration of Service - On this line the anticipated time required to meet the needs of the student is recorded. Regardless of the length of time, the IEP must be reevaluated yearly.

d. Individual Responsible for the Service - The person responsible for each specific service is listed on these lines.

e. Extent of Time in the Regular Education Program - The proportion of time to be spent in the resource room and the regular classroom should be listed here.

f. Justification of the Educational Placement - Based on the data provided for the IEP, a statement indicates the rationale for placement. It does not have to be in great detail.

g. & h. Parental Involvement and Approval - The parent(s) must be given the opportunity to be involved in the session. If appropriate, the student should also be included. The parent(s) must sign the IEP before the student is actually considered to be in the program.

ese eight components make up the IEP.

e development of IEPs in your particular school may vary slightly.

REFERENCES:

Abeson, A. (1977). The educational least restrictive alternative. AMICUS, June, 23-26.

Anderson, W. G., Chitwood, S., & Hayden, D. (1980). Obtaining your child's records from the local school. The Exceptional Parent, 10, 34-37.

Bailey, D. B., & Harbin, G. L. (1980). Nondiscriminatory evaluation. Exceptional Children, 46, 590-596.

Bateman, B. (1980). So you're going to a hearing. IL: Hubbard.

Bateman, B., & Herr, C. M. (1981). Law and special education. In J. Kauffman & D. Hallahan (Eds.), Handbook of Special Education. Englewood Cliffs, NJ: Prentice-Hall.

Eggleston, C. (April, 1984). Results of a national correctional/special education survey. Paper presented at the Correctional/Special Education Training Project Conference, Arlington, VA.

Frith, G. H. (1981). "Advocate" vs. "professional employee": A question of priorities for special educators. Exceptional Children, 47, 486-493.

Gerry, M. (1980). Monitoring the special education programs of correctional institutions: A guide for special education monitoring staff of state educational agencies. Washington, DC: U.S. Department of Education.

Grosenick, J. K., & Huntze, S. L. (1980). National needs analysis in behavioral disorders. Department of Special Education, University of Missouri, Columbia.

Hardy, E. The Education for All Handicapped Children Act: What is a "free appropriate public education?" Wayne Law Review, 29, 1285-1300.

Hockenberry, C. M. (1980). Education of adjudicated handicapped youth: Policy issues and implications. ERIC Exceptional Child Report. Reston, VA: The Council for Exceptional Children.

Hull, K. (1980). Accessibility rights subject to a mercurial congress and passive courts. AMICUS, May/August, 64-67.

Implementing Regulations for PL 94-142, published August 23, 1977, 42 Federal Register 42474-42514, codified at 45 Code of Federal Regulations 121a.1 et seq.

Jones, A. (1981). A practical guide to federal special education law. New York: Holt, Rinehart & Winston.

Kardash, C. A., & Rutherford, R. B. (1983). Meeting the special education needs of adolescents in the Arizona Department of Corrections. Journal of Correctional Education, 34, 97-98.

Keenan, P. A., & Hammond, C. M. The institutionalized child's claim to special education: A federal codification of the right to treatment. University of Detroit Journal of Urban Law, 56, 337-404.

Keilitz, I. (1984, April). The handicapped youthful offender: Prevalence and current practices. Paper presented at the Correctional/Special Education Training Project Conference Arlington, VA.

Leonard, J. (1981). 180 day barrier: Issues and concerns. Exceptional Children, 47, 246-253.

Levine, E., & Wexler, E. (1981). PL 94-142: An act of Congress. New York: MacMillan.

Linn, B. (1977). Involuntary sterilization - a constitutional awakening to fundamental human rights. AMICUS, February, 34-39.

Martin, R. (1980). Workshop materials: The impact of current legal action on educating handicapped children. Champaign, IL: Research Press.

Martin, R. (1980). Educating handicapped children: The legal mandate. Champaign, IL: Research Press.

McCarthy, M. M. (1982). The handicapped child's right to an appropriate educational program. Education Law Reporter, December 16, 1-7.

Morgan, D. I. (1979). Prevalence and types of handicapping conditions found in juvenile correctional institutions: A national survey. Journal of Special Education, 13, 283-295.

Oberman, C. A. (1980). The right to education for the handicapped: Three decades of deliberate speed. AMICUS, May/August, 45-53.

PEP - Developing criteria for the evaluation of protection in evaluation procedures provisions. (1979). Washington, DC: Research for Better Schools, Inc., Department of Health, Education and Welfare.

Reid, J. D., & Weiner, W. K. (1979). Teaching the mildly handicapped in the regular classroom: A component of the Sweetwater Plan. Instructional module developed under Project TAMEC. Hickory, NC: Lenoir-Rhyne College.

Right to treatment. (1977). Mental Disability Law Reporter, July/August, 108-117.

Roberts, J., & Hawk, B. (1980). Legal rights primer for the handicapped: In and out of the classroom. Novato, CA: Academic Therapy Publications.

Rutherford, R. B., Nelson, C. M., & Wolford, B. I. (1984). Special education in the most restrictive environment: Correctional/special education. Journal of Special Education, 19, 59-71.

Reutter, E. E., & Hamilton, R. R. (1970). The law of public education. New York: Foundation Press.

Santamour, M. B., & Watson, P. S. (1982). The retarded offender. New York: Praeger.

Scandary, J. (1981). What every teacher should know about due process Hearings. Teaching Exceptional Children, 13, 92-96.

Shanker, A. (1980). Public Law 94-142: Prospects and problems. The Exceptional Parent, 10, 51-56.

Smith, B. J., & Hockenberry, C. M. (1980). Implementing the Education for All Handicapped Children Act, PL 94-142, in youth corrections facilities: Selected issues. In F. J. Weintraub, A. Abeson, J. Ballard, & M. LaVor (Eds.), Public policy and the education of exceptional children (vol. 11). Reston, VA: The Council for Exceptional Children.

Smith, B. J., Ramirez, B. A., & Rutherford, R. B. (1983). Special education in youth correctional facilities. Journal of Correctional Education, 34, 108-112.

Smith, T. E. (1981). Status of due process hearings. Exceptional Children, 48, 232-236.

Soskin, R. (1980). Handicapped advocacy: A last hurrah? AMICUS, May/August, 69-71.

Special Education Handbook. Developed by the Correctional Education Branch of the Maryland State Department of Education, revised January, 1982.

Status report of NYS Department of Correctional Services Handicapped Action Plan. (1984). Albany, NY: New York State Department of Correctional Services.

Turnbull, H. R. (1981). Legal precedent the individual case: How much can be generalized from court findings? Exceptional Education Quarterly, 2, 81-90.

Turnbull, A., & Turnbull, H. R. (1984). Free appropriate public education: Law and implementation. Denver, CO: Love Publishing.

Weintraub, F. J. (1977). Understanding the individualized education program. AMICUS, April, 26-30.

Weintraub, F. J. (1976). Professional rights and responsibilities. In F. J. Weintraub, A. Abeson, J. Ballard, & M. LaVor (Eds.), Public policy and the education of exceptional children (pp. 331-343). Reston, VA: The Council for Exceptional Children.

Vanseldyke, J. K., & Algozzine, B. (1984). Introduction to special education. Boston, MA: Houghton Mifflin.

POLICY CONSIDERATIONS IN THE DRAFTING OF PL 94-142 (T-1)

PROBLEMS	POLICY
MANY CHILDREN WERE NOT IDENTIFIED	PROJECT CHILD FIND
MANY CHILDREN WERE BEING EXCLUDED	FAPE
PROGRAMS WERE ALMOST NONEXISTENT	FLOW-THROUGH FUNDS
EVALUATION AND BIAS IN TESTING	NO TEST TO BE USE AS SOLE CRITERION
NO GOALS	IEP
NO EVALUATION OF PROGRESS	REEVALUATIONS EVERY THREE YEARS

PURPOSE OF PL 94-142 (T-2A)

(1) INSURE THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION FOR ALL HANDICAPPED CHILDREN

(2) PROTECT THE RIGHTS OF PARENTS AND THEIR HANDICAPPED CHILDREN

(3) ASSIST STATES IN PROVIDING SERVICES BY ALLOCATING FUNDS

(4) TO MONITOR AND INSURE THE EFFECTIVENESS OF STATES' EFFORTS TO PROVIDE SERVICES

FREE APPROPRIATE PUBLIC EDUCATION (T-2B)

FREE .... MEANING PROVIDED AT PUBLIC EXPENSE, WITHOUT CHARGE TO THE PARENT

APPROPRIATE .... IN OTHER WORDS THEY MEET THE STANDARDS SET BY THE SEA AND DETAILED IN PL 94-142

PUBLIC .... INCLUDING PRESCHOOL, ELEMENTARY, AND SECONDARY SCHOOL PROGRAMS WITHIN A STATE

EDUCATION .... MEANING SERVICES THAT ARE PROVIDED IN ACCORDANCE WITH AN INDIVIDUALZIED EDUCATION PROGRAM

****

SPECIAL EDUCATION AND RELATED SERVICES (T-3)

SPECIAL EDUCATION

- ANY SPECIALLY DESIGNED INSTRUCTION
- SPEECH PATHOLOGY, OR OTHER RELATED SERVICES CONSISTING OF SPECIALLY DESIGNED INSTRUCTION
- VOCATIONAL EDUCATION IF IT CONSISTS OF SPECIALLY DESIGNED INSTRUCTION
- PHYSICAL EDUCATION, INCLUDING ADAPTED PHYSICAL EDUCATION

RELATED SERVICES:

- DEVELOPMENTAL: EARLY IDENTIFICATION AND ASSESSMENT, PHYSICAL THERAPY, AND CERTAIN MEDICAL EXAMINATIONS
- CORRECTIVE: SPEECH PATHOLOGY, AUDIOLOGY, OCCUPATIONAL THERAPY, ETC.
- SUPPORTIVE: COUNSELING, PSYCHOLOGICAL SERVICES, RECREATION, PARENT TRAINING, AND TRANSPORTATION, AS WELL AS SOCIAL WORK SERVICES

DEFINITIONS OF HANDICAPPED STUDENTS (T-4)

SERIOUSLY EMOTIONALLY DISTURBED:

A. AN INABILITY TO LEARN WHICH CANNOT BE EXPLAINED BY INTELLECTUAL, SENSORY, OR HEALTH FACTORS;

B. AN INABILITY TO BUILD OR MAINTAIN SATISFACTORY INTERPERSONAL RELATIONSHIPS WITH PEERS AND TEACHERS;

C. INAPPROPRIATE TYPES OF BEHAVIOR OR FEELINGS UNDER NORMAL CIRCUMSTANCES;

D. A GENERAL PERVASIVE MOOD OF UNHAPPINESS OR DEPRESSION; OR A TENDENCY TO DEVELOP PHYSICAL SYMPTOMS OR FEARS ASSOCIATED WITH PERSONAL OR SCHOOL PROBLEMS.

MENTALLY RETARDED:

A. SIGNIFICANT SUBAVERAGE INTELLECTUAL FUNCTIONING WHICH EXISTS CONCURRENTLY WITH ADAPTIVE BEHAVIOR DEFICITS

B. MANIFESTED DURING THE DEVELOPMENTAL PERIOD AND MUST ADVERSELY AFFECT EDUCATIONAL PERFORMANCE

LEARNING DISABLED:

A. DISCREPANCIES IN ORAL EXPRESSION, LISTENING, WRITTEN, AND READING COMPREHENSION, BASIC READING, MATHEMATICS, CALCULATION, OR MATHEMATICAL REASONING SKILLS

B. DOES NOT ACHIEVE COMMENSURATE WITH ABILITIES

C. EXCLUSIONARY CLAUSE

SPECIAL EDUCATION PROCEDURES OUTLINED BY PL 94-142 (T-5)

REFERRAL PROCEDURES:

- CHILD FIND SYSTEM
- GENERAL SCREENING OF ALL CHILDREN
- TEACHER REFERRALS
- PARENT INTIATED REFERRALS

DUE PROCESS PROCEDURES:

- FOLLOWING INITIAL SCREENING OR REFERRAL, PARENTS MUST BE NOTIFIED OF ACTION AGENCY WISHES TO TAKE
- PARENTAL CONSENT MUST BE GIVEN PRIOR TO EVALUATION
- AGENCY MUST INFORM PARENTS OF THEIR RIGHTS
- IF PARENT CANNOT BE LOCATED, SURROGATE PARENT IS APPOINTED
- PARENTAL CONSENT MUST ALSO BE GIVEN PRIOR TO INITIAL PLACEMENT INTO SPECIAL EDUCATION

****

(T-6)

EVALUATION PROCEDURES:

- TESTS AND EVALUATION MATERIALS ADMINISTERED IN NATIVE LANGUAGE
- NO SINGLE PROCEDURE USED AS SOLE CRITERION FOR DETERMINING AN APPROPRIATE EDUCATIONAL PROGRAM
- TESTS MUST MEASURE WHAT THEY PROPORT TO MEASURE
- EVALUATION MADE BY A MULTIDISCIPLINARY TEAM
- ASSESS IN ALL AREAS RELATED TO SUSPECTED DISABILITY
- WHEN PARENTS DISAGREE, THEY HAVE THE RIGHT TO AN INDEPENDENT EVALUATION
- FULL REEVALUATION EVERY THREE YEARS

(T-7)

VIGNETTE ONE:

AT THE AGE OF 17, JOSE HERNANDEZ WAS SENTENCED AS AN ADULT AND PLACED IN A CORRECTIONAL FACILITY. WHILE IN THE DIAGNOSTIC EVALUATION AND INTAKE CENTER, HE WAS ADMINISTERED A WIDE RANGE ACHIEVEMENT TEST IN THE AREA OF READING. ON THE BASIS OF THIS TEST, IT WAS DETERMINED THAT HE COULD READ AT APPROXIMATELY A 5.2 GRADE LEVEL AND WAS, THEREFORE, REFERRED TO A GED PROGRAM. WHEN HIS RECORDS FINALLY ARRIVED FROM THE LOCAL SCHOOL DISTRICT, IT WAS DISCOVERED THAT JOSE WAS PREVIOUSLY IDENTIFIED AS HANDICAPPED UNDER PL 94-142 AND RECEIVING SERVICES WHEN HE ATTENDED THE PUBLIC SCHOOL.

WHAT SHOULD THE CORRECTIONAL FACILITY DO AT THIS TIME?

WHAT PROCEDURAL SAFEGUARDS MUST BE FOLLOWED?

WHAT EVALUATION PROCEDURES ARE REQUIRED AT THIS POINT?

VIGNETTE TWO:

JUST BEFORE SHE TURNED 18, VANESSA SIMMONS WAS SENTENCED TO A CORRECTIONAL FACILITY. WHILE AT THE DIAGNOSTIC INTAKE CENTER, SHE WAS GIVEN AN IQ TEST. HER IQ SCORE FELL WITHIN THE MILDLY MENTALLY RETARDED RANGE.

WHAT SHOULD THE CORRECTIONAL FACILITY DO AT THIS TIME?

WHAT PROCEDURAL SAFEGUARDS MUST BE FOLLOWED?

WHAT EVALUATION PROCEDURES ARE REQUIRED AT THIS POINT?

(T-8)

ELIGIBILITY:

- DO EVALUATION RESULTS QUALIFY STUDENTS UNDER ONE OF THE ELEVEN HANDICAPPING CONDITIONS LISTED IN PL 94-142?
- QUESTIONABLE VALIDITY OF ELIGIBILITY FORMULAS
- PARENTS MUST BE NOTIFIED OF FINDINGS

ELIGIBILITY FORMULAS:

15.9	(STUDENT'S CHRONOLOGICAL AGE)
-5.6	(AVERAGE AGE AT SCHOOL ENTRY)
10.3	
X .89	(IQ MEASURED IN HUNDREDTHS)
9.16	(EXPECTED ACHIEVEMENT)

SUBTEST	SCORE	DISC.	RANGE
MATHEMATICS	7.3	-19 MO.	MILD
READING RECOG.	5.1	-41 MO.	SEVERE
READING COMPRE.	4.7	-45 MO.	SEVERE
SPELLING	5.8	-34 MO.	MODER.
GEN. INFO.	8.2	-10 MO.	MILD
TOTAL TEST	6.2	-30 MO.	MODER.

(T-9)

IEP DEVELOPMENT:

- CONTAINS A WRITTEN STATEMENT OF THE GOALS AND OBJECTIVES THAT ARE TO BE MET IN PROVIDING AN APPROPRIATE EDUCATION FOR THE STUDENT
- MUST BE DEVELOPED WITHIN 30 DAYS OF THE DATE ELIGIBILITY WAS DETERMINED
- PARENT PARTICIPATION
- STATEMENT OF SPECIFIC SPECIAL EDUCATION AND RELATED SERVICES TO BE PROVIDED AND THE EXTENT TO WHICH THE STUDENT WILL PARTICIPATE IN REGULAR CLASSES
- IEP IS NOT A CONTRACT

(T-10)

PLACEMENT:

- COMMITTEE MUST BE COMPOSED OF PERSONS WHO ARE KNOWLEDGEABLE ABOUT THE STUDENT
- PUBLIC AGENCY MUST PROVIDE FOR A CONTINUUM OF PLACEMENTS
- AS CLOSE AS POSSIBLE TO HOME
- AFTER INITIAL PLACEMENT, PARENTAL PERMISSION IS NOT REQUIRED WHEN PLACEMENT IS TO BE CHANGED, HOWEVER, DUE PROCESS (NOTICE AND HEARING) IS REQUIRED
- CHANGE IN PLACEMENT REQUIRES REEVALUATION AND ANOTHER IEP MEETING
- IF EITHER PARTY DECIDES TO GO TO A HEARING, THE STUDENT IS TO REMAIN IN THE PRESENT PLACEMENT UNTIL AFTER THE HEARING OFFICER RENDERS A DECISION

(T-11)

LEAST RESTRICTIVE ENVIRONMENT:

- TO THE MAXIMUM EXTENT APPROPRIATE, MUST BE EDUCATED WITH NONHANDICAPPED PEERS
- DOES NOT NECESSARILY MEAN THE MAINSTREAM OR REGULAR CLASS
- THE SETTING THAT IS MOST LIKE THE REGULAR CLASSROOM AND WHERE THAT PARTICULAR STUDENT CAN BENEFIT FROM HIS/HER SPECIAL EDUCATION PROGRAM
- PROVISION OF NONACADEMIC AND EXTRACURRICULAR SERVICES AND ACTIVITIES

****

BASIC SEQUENTIAL PROCEDURES FOR PL 94-142 (T-12)

REFERRAL	1. CHILD FIND 2. SCREENING 3. PARENT OR TEACHER	•• NOTIFICATION •• CONSENT
EVALUATION	1. IN ANY SUSPECTED AREA OF DISABILITY 2. VISION AND HEARING SCREENING 3. MULTIDISCIPLINARY TEAM	
ELIGIBILITY	1. ONE OF ELEVEN CATEGORIES 2. EXCLUSION CLAUSE FOR LD 3. ELIGIBILITY FORMULAS	•• NOTICE •• REQUEST PARENTS' PARTICIPATION IN IEP MEETING
IEP	1. AGENCY REPRESENTATIVE 2. STUDENT'S TEACHER 3. PARENTS 4. STUDENT, WHEN APPROPRIATE 5. MEMBER OF EVALUATION TEAM. OR 6. OTHER PERSON KNOWLEDGEABLE ABOUT THE EVALUATION OR THE STUDENT	
PLACEMENT	1. BASED ON CONTENTS OF IEP 2. CONSIDERATION OF LRE	•• NOTICE •• CONSENT PRIOR TO INITIAL PLACEMENT

(T-13)

DUE PROCESS PROCEDURES:

- NOTICE, CONSENT, ACCESS TO RECORDS, HEARING

- NOTICE OF ALL PROCEDURAL PROTECTIONS WHENEVER:

  DISTRICT PROPOSES OR REFUSES TO INITIATE OR CHANGE

  THE IDENTIFICATION, EVAULATION, PROGRAM, PLACEMENT

- PARENT OR INMATE MUST GIVE CONSENT:

  PRIOR TO SPECIAL EDUCATION EVALUATION

  PRIOR TO INITIAL PLACEMENT IN SPECIAL EDUCATION

- ACCESS TO RECORDS INCLUDES THE RIGHT TO:

  BE PROVIDED WITH A COPY OF THE RECORDS

  PETITION TO HAVE INFORMATION REMOVED

  AMEND RECORDS BY SUBMITTING ADDITIONAL INFORMATION FOR INCLUSION IN FILE

  CONTROL ACCESS BY OTHERS

- HEARING AT LOCAL LEVEL, WITH STATE LEVEL APPEAL

(T-14)

VIGNETTE:

JOE BERRY'S PARENTS HAVE JUST READ HIS PSYCHOLOGICAL REPORT AND DISAGREE WITH THE AGENCY'S PROPOSAL TO CLASSIFY THEIR SON AS EMOTIONALLY DISTRUBED. THEY VEHEMENTLY DENY THAT JOE HAS ANY REAL PROBLEMS, RATIONALIZING THAT HIS INCARCERATION WAS A RESULT OF HANGING AROUND WITH A BAD GROUP OF KIDS. THE PARENTS FEEL THIS LABEL (IN ADDITION TO HIS INCARCERATION) WILL STIGMATIZE JOE. THEY ARE REQUESTING A HEARING REGARDING THEIR SON'S CLASSIFICATION AS 'SERIOUSLY EMOTIONALLY DISTURBED'.

WHAT SEQUENCE OF EVENTS MUST NOW TAKE PLACE?

WHAT ACTIONS MUST THE CORRECTIONAL AGENCY TAKE AT THIS TIME?

WHAT HAPPENS IF THE PARENTS WIN? WHAT IF THEY LOSE?

(T-15)

PROCESS IN CORRECTIONS

EVALUATION — ALL INMATES TESTED AT A DIAGNOSTIC AND RECEPTION CENTER

REFERRAL — INMATES FALLING BELOW CERTAIN CRITERIA ARE REFERRED TO SPECIAL EDUCATION COMMITTEE (OFTEN CALLED THE ADMISSION REVIEW, AND DISMISSAL (ARD) TEAM)

- NOTICE
- CONSENT FROM PARENTS OR INMATE

EVALUATION

1. ARD TEAM COMPLETES A SPECIAL EDUCATION ASSESSMENT
2. REQUEST FOR RECORDS FROM STUDENT'S PREVIOUS SCHOOL

ELIGIBILITY

1. ARD TEAM REVIEWS ASSESSMENT DATA TO DETERMINE ELIGIBILITY
2. MAKE RECOMMENDATIONS FOR PLACEMENT AT AN INSTITUTION WHERE APPROPRIATE SERVICES CAN BE PROVIDED

IEP

1. WRITTEN AND IMPLEMENTED BY AN ARD TEAM AT THE RECEIVING INSTITUTION
2. PERIODICALLY REVIEWED AND UPDATED BY ARD TEAM AT RECEIVING INSTITUTION

PLACEMENT

1. PART OF THE PLACEMENT DECISION IS MADE BY THE ARD TEAM AT THE DIAGNOSTIC AND RECEPTION CENTER
2. ONCE THE IEP IS WRITTEN, THE RECEIVING INSTITUTION PLACES STUDENT IN APPROPRIATE CLASSROOM ENVIRONMENT

(NOTE: REFER BACK TO T-12)

(T-16)

IMPLEMENTATION ISSUES

1. PL 94-142 WAS DESIGNED TO ACCOMMODATE A PUBLIC SCHOOL SERVICE DELIVERY MODEL. THEREFORE, IT'S HARD TO APPLY IN CORRECTIONAL SETTING

2. ORGANIZATIONAL DESIGN OF THE CORRECTIONAL SYSTEM OFTEN POSES PROBLEMS

3. SCREENING PROCESS MAY BE INADEQUATE

4. EVALUATION MAY REFLECT DEPRESSED SCORES DUE TO ADJUSTMENTS TO INCARCERATION

5. ELIGIBILITY CATEGORIES MAY NOT BE INCLUSIVE ENOUGH UNDER PL 94-142

6. IEP DEVELOPMENT AND IMPLEMENTATION MAY BE DELAYED FOR VARIOUS REASONS

7. PLACEMENT DECISIONS CAN BE HINDERED BY LACK OF CONTINUUM OF SERVICES

8. DUE PROCESS PROCEDURES OUTLINED IN PL 94-142 (AND TIMELINES) ARE HARD TO IMPLEMENT

9. SURROGATE PARENT REQUIREMENTS ARE DIFFICULT TO MEET

(T-17)

COMPONENTS OF AN IEP

PERSONAL INFORMATION

NAME, ADDRESS, DATE OF BIRTH, GRADE, AGE, ETC.

IEP COMMITTEE

NAME AND POSITION FOR EACH PERSON PARTICIPATING IN THE MEETING

A REPRESENTATIVE OF LOCAL EDUCATION AGENCY, THE STUDENT, STUDENT'S TEACHER OR SPECIAL EDUCATION TEACHER, PARENT OR SURROGATE PARENT, MEMBER OF EVALUATION TEAM, ETC.

CURRENT LEVEL OF EDUCATION FUNCTIONING

STATEMENTS REGARDING PRESENT LEVEL OF FUNCTIONING, INCLUDING STRENGTHS AND WEAKNESSES

AREAS INCLUDE ACADEMIC ACHIEVEMENT, SELF-HELP, SOCIAL/EMOTIONAL, VOCATIONAL, ETC.

ANNUAL GOAL STATEMENTS

BROAD GENERAL STATEMENTS OF INTENDED OUTCOMES

INSTRUCTIONAL OBJECTIVES

BEHAVIORAL OBJECTIVES WRITTEN FOR EACH GOAL AREA

OBJECTIVES TO INCLUDE BEHAVIOR, CONDITIONS, AND CRITERIA

EDUCATIONAL SERVICES TO BE PROVIDED

SERVICES REQUIRED AND DATE TO BE INITIATED

DURATION OF SERVICES

INDIVIDUAL RESPONSIBLE FOR SERVICES

EXTENT OF TIME IN REGULAR PROGRAM

JUSTIFICATION FOR EDUCATIONAL PLACEMENT

PARENT/SURROGATE INVOLVEMENT AND APPROVAL

(T-18A)

WRITING BEHAVIORAL OBJECTIVES

SPECIFY THE BEHAVIOR THAT IS EXPECTED

READ WORDS ORALLY
WRITE ANSWERS
SPELL WORDS IN WRITING
FIND THE MAIN IDEA OF A PARAGRAPH

DESCRIBE THE CONDITIONS UNDER WHICH THE BEHAVIOR WILL OCCUR

WHEN GIVEN A LIST OF WORDS CONTAINING SHORT VOWELS
WHEN GIVEN A WORKSHEET OF 20 ADDITION PROBLEMS WITH REGROUPING
WHEN GIVEN A WORD FROM THE DOLCH LIST OF BASIC VOCABULARY
WHEN GIVEN A PARAGRAPH FROM THE SPECIFIC SKILLS SERIES --
GETTING THE MAIN IDEA AND MULTIPLE CHOICE QUESTIONS

GIVE THE CRITERIA FOR MASTERY

WITH 50 WORDS PER MINUTE WITH NO MORE THAN 2 ERRORS
WITH NO ERRORS
SPELL CORRECTLY FOR 3 CONSECUTIVE DAYS
WITH 90% ACCURACY FOR 2 CONSECUTIVE DAYS BEFORE
MOVING TO THE NEXT LEVEL OF DIFFICULTY

****

(T-18B)

THE OBJECTIVE:

WHEN GIVEN A LIST OF WORDS CONTAINING SHORT VOWELS, THE STUDENT WILL ORALLY READ 50 WORDS PER MINUTE WITH NO MORE THAN 2 ERRORS.

WHEN GIVEN A WORKSHEET WITH 20 ADDITION PROBLEMS WITH REGROUPING, THE STUDENT WILL WRITE THE ANSWER WITH NO ERRORS.

WHEN GIVEN A WORD FROM THE DOLCH LIST OF BASIC VOCABULARY, THE STUDENT WILL WRITE THE WORD CORRECTLY, FOR THREE CONSECUTIVE DAYS.

WHEN GIVEN A PARAGRAPH FROM THE SPECIFIC SKILLS SERIES -- GETTING THE MAIN IDEA AND MULTIPLE CHOICE QUESTIONS, THE STUDENT WILL FIND THE MAIN IDEA OF A PARAGRAPH WITH 90% ACCURACY FOR TWO DAYS BEFORE MOVING TO THE NEXT LEVEL OF DIFFICULTY.

HANDOUT 1a

ANSWER KEY

CURRENT LEVELS OF STUDENT PERFORMANCE DATA SHEET

Can Do Academic	Can't Do Academic	Classroom Behavior	Self-Concept	Learning Style
Can read 19 words with 7 errors	Does not know the following consonant sounds - f, w, y, r	Hits others	States that he looks O.K.	Most alert at lunch-time and first hour in the morning
Can read 72% of words on the Fry Instant Word List for grade one, 32% at grade 2, 16% at grade 3	The following vowel sounds (short) u, e.	Fights on the floor	Home behavior is bad	Short attention span
Can count to 100	Blends: st, pl, tr, cl, gl, fl, sm, sn, sw, tw	Loses temper and yells	States he is treated badly by peers and teacher.	Motivation by threat reward, or incentives short-lived
Can count by 2's, 5's 10's to 1,000	Cannot add 2 and 3 place problems with carrying	Swears	Likes indoor games	Learns best when a multi-media package is used
Can subtract 2 place problems without borrowing	Cannot subtract 2 and 3 place problems with borrowing Does not close letters and has poor spacing and letter alignment in cursive writing	Pouts		Learns best when active responding or multi-sensory approach used.

HANDOUT 1

Place the information in the appropriate column:

CURRENT LEVELS OF STUDENT PERFORMANCE DATA FORM

Can Do Academic	Can't Do Academic	Classroom Behavior	Self-Concept	Learning Style

HANDOUT 2

INDIVIDUAL EDUCATION PROGRAM (For Exercise #1)

STUDENT

1. Name: _____
   Address: _____
   Grade: _____
   Current Placement: _____
   Date of Birth: _____ Age: _____

COMMITTEE

2. Name Position Initial
   _____
   _____
   _____
   _____

I.E.P. From _____ to _____

3. Present Level of Educational Functioning	4. Annual Goal Statements	5. Instructional Objectives	6. Objective Criteria and Evaluation
Strengths			
Needs			

7. Educational Services to be Provided:

A. Services Provided	B. Date Initiated	C. Duration of Service	D. Individual Responsible for the Service

Extent of time in the regular education program:

Justification of the Individual Education Program:

8. I have had the opportunity to participate in the development of the Individual Education Program (I.E.P.)

I agree with the Individual Education Program ☐

I disagree with the Individual Education Program ☐

Parent's Signature

HANDOUT 3

INDIVIDUAL EDUCATION PROGRAM (Answer Key for Exercise #1)

STUDENT

1. Name: Billy Jones
   Address: 1045 Lexington
   Grade: 9
   Current Placement: Regular Class
   Date of Birth: 10-9-69 Age: 15

COMMITTEE

2.

Name	Position	Initial
Mr. I.M. Wise	Principal	I.M.W.
Mrs. U. R. Zamost	Reg. Teacher	U.R.Z.
Ms. Fondamen	Resource Teacher	A.M.F.
Mrs. James Jones	Parent	L.L.J.

I.E.P. From 10-15-85 to 5-30-86

3. Present Level of Educational Functioning	4. Annual Goal Statements	5. Instructional Objectives	6. Objective Criteria and Evaluation
Strengths Instructional reading level 2, read 63% of Dolch word list (easy half) and 72% of Fry Instant Word List grade 1 to math level grade 2.9, counts to 100, counts by 2's 5's, 10's. Can add 2 & 3 place numbers without carrying **Needs** To increase reading speed. Needs to learn the following sounds: f, w, y, r, short u, e, most common sound blends. Increase comprehension recall facts and draw conclusions. To learn place value, borrow and carry, multiplication and division facts, simple fractions, time concepts.	1. To improve reading speed and style. 2. To learn word attack skills. 3. To learn math computational skills.	1. To increase reading speed to 100 words per minute 2. (a) To say sounds single and in combination with 100% accuracy. (b) To increase word sentence comprehension skills. 3. (a) To learn basic multiplication and division facts. (b) To learn to borrow in subtraction problems. (c) To learn to carry in addition problems. (d) To learn place	1. Count correct words read per minute. 2. (a) Count correct sounds said per min. (b) Count correct words and sentences understood. 3. (a) Count correct written responses per minute. (b) Count correctly completed problems. (c) Count correctly completed problems. (d) Count correctly completed problems.

7. Educational Services to be Provided:

A. Services Provided	B. Date Initiated	C. Duration of Service	D. Individual Responsible for the Service
Resource Room Counseling	10-15-85	5-86	Mrs. Penny Loafer (If available)

Extent of time in the regular education program:

60% increasing to 80% as soon as possible

Justification of the Individual Education Program:

It is felt that the structure of the Resource Room can best meet goals for Billy in coordination with his program in the regular classroom.

8. I have had the opportunity to participate in the development of the Individual Education Program (I.E.P.)

I agree with the Individual Education Program [x]

I disagree with the Individual Education Program [ ]

Mrs. James Jones
Parent's Signature

HANDOUT 4

INDIVIDUAL EDUCATION PROGRAM (For Exercise #2)

STUDENT

1. Name: _____
   Address: _____
   Grade: _____
   Current Placement: _____
   Date of Birth: _____ Age: _____

COMMITTEE

2. Name Position Initial
   _____
   _____
   _____
   _____

I.E.P. From _____ to _____

3. Present Level of Educational Functioning	4. Annual Goal Statements	5. Instructional Objectives	6. Objective Criteria and Evaluation
Strengths Needs			

7. Educational Services to be Provided:

A. Services Provided	B. Date Initiated	C. Duration of Service	D. Individual Responsible for the Service

Extent of time in the regular education program:

Justification of the Individual Education Program:

8. I have had the opportunity to participate in the development of the Individual Education Program (I.E.P.)

117

I agree with the Individual Education Program ☐

I disagree with the Individual Education Program ☐

Parent's Signature

118

HANDOUT 5

EDUCATIONAL EVALUATION

Name: Billy Jones Age: 15-8

Parents: Mr. & Mrs. James Jones Birthdate: 10/9/69

Address: 11043 Lexington School: Smith Correctional Facility

Referred by : Mrs. Miller, Teacher Grade: 9

Reasons for Referral: Disruptive classroom behavior and learning difficulties. Low scores during screening at diagnostic and reception center.

The following information was collected and compiled by one of the correctional facility Diagnostic-Prescriptive Specialists (DPS). This report contains a report from Billy's teacher regarding his classroom behavior and academic performance and the results of a comprehensive educational assessment made by the DPS.

Teacher's Report

My main impression of Billy is that he is an adolescent who needs almost constant attention both for his academic work and his behavior in the classroom.

Academically, his strongest areas are social studies and science, as long as the assignment doesn't involve reading. Billy is especially good during our weekly current events discussion period, although his comments are sometimes too provocative.

Of course, reading and spelling are his weakest areas. When it's his turn to read, he reads aloud slowly, pointing at each word until he eventually loses his place. In reading and spelling, he reverses words and letters far more frequently than the other students in his class. It is very hard for him to keep up with even the lowest students in spelling and reading. What really puzzles and frustrates me though, is his inability to remember the simplest facts or words on a day to day basis. One day I think he has it, and the next day he pulls the rug out from under me.

As far as his work habits and classroom behavior are concerned, I think my responses to the questionnaire which the DPS gave me pretty much summarize my observations (see next page). Billy's frustration tolerance is quite low. When he is confronted with a task that is probably too difficult for him, he becomes quite tense and edgy. I also think that he really is afraid of trying because he is afraid of failing. One more thing. I've come to the conclusion that when things are going well for Billy on the floor, he will work very hard in school and try to do well, but when things are not going so good, all progress ceases.

119

Billy has had and continues to have a serious problem in relations with his peers. Because of Billy's behavior, many of his fellow inmates harrass him. Those few friends he does have find it difficult to understand and deal with his outbursts and mood swings. As a result of his inability to treat others fairly, Billy has friends for only a short period of time.

I have tried just about everything to help Billy. I have isolated him, sent him back to the floor, taken away privileges, set his desk right next to mine, assigned homework -- why I've even bribed him on occasions with extra privileges, but even that only seems to work temporarily. As I said before, he seems to do best (relatively speaking) when the assignment is more non-academic and doesn't require him to sit in his seat or pay close attention to me. He is especially good in art-type activities. Matter of fact, when there seems like there is nothing else to try, I let him draw -- at least that keeps him quiet.

I'm just about at my wit's end with Billy. He needs some special help. When he learns to control his behavior and when he starts listening and paying attention and finishing his school work, then I'll be glad to have him in my room. I think he really could be a nice person, and I know he's capable of doing better academically.

Diagnostic-Prescriptive Specialist Report:

The information reported in this section of the report was derived from the administration of criterion-referenced tests in one-to-one work sessions with Billy, from his teacher's recording of baseline data, and from my own systematic observation of Billy in his classroom.

(1) Reading:

Spache Diagnostic Reading Scales
- Independent Reading Level: 1.2
- Instructional Reading Level: 2.1
- Frustration Reading Level: 2.2
- Reading Rate at Instructional Reading Level: 19 words per minute with 7 errors.

Errors/Problems noted:
- slow, expressionless word-by-word reading
- added words and sounds
- repeat words and lines
- guesses at unknown words
- confused letters ("ban" for "pan")
- reversed words ("no" for "on", "pot" for "top")
- omitted letters ("here" for "where")
- could not recall basic facts
- could not draw conclusions

On the easy half of the Dolch List, he correctly read 62 of the 110 words. Supporting this finding, on the Fry Instant Word List, Billy read 72% of the first grade words correctly, 32% of the second grade words, and 16% of the third grade list.

120

Billy recognizes most of the single initial consonant sounds (except f, v, y, r) and short vowel sounds (except u and e), but knows few of the sounds initial consonant blends make (missed st, pl, tr, fr, wh, th, cl, gl, fl, sm, sn, sw, tw).

(2) Arithmetic:

Key Math:		Total = 2.9
Numeration	3.5	
Fractions	2.9	
Geometry	2.3	
Addition	3.0	
Subtraction	3.2	
Multiplication	2.0	
Division	0	
Numerical Reasoning	2.8	
Word Problems	2.9	
Money	3.0	
Missing Elements	1.9	

Billy's primary areas of difficulty in arithmetic involve multiplication, division, addition with carrying, subtraction with borrowing, simple fractions, place value, and time concepts (months, days, weeks).

On a worksheet containing 100 basic addition and subtraction facts, Billy computed 48 problems correctly and made 6 errors in a 3-minute timed test. When given as much time as he needed to finish, Billy obtained a score of 89% in approximately 8 minutes.

Additional informal assessment revealed that Billy can:

count to 100 (and beyond)
count by 2's, 5's, 10's to 100
understand the inverse relationship of addition and subtraction
write dictated numerals
add 2 and 3-place problems, no carrying
subtract 2-place problems, no borrowing
multiply by 2's and 3's

Billy cannot:

add 2 and 3-place problems with carrying
subtract 2 and 3-digit problems with borrowing
multiply
divide

(3) Spelling:

At the present time, Billy is working with several other students in a 3rd grade spelling workbook. On weekly spelling tests, Billy usually scores between 20% and 40% correct.

Informal work in spelling revealed the following types of errors:

omitting letters ("hom" for "home")
reversing whole words ("eno" for "one")
phonetic spelling of non-phonetic words ("cavt" for "caught")
adding unneeded letters ("dressses")
putting letters in a word which bear no discernible relationship with the word dictated.

Trial teaching indicated that a multi-sensory approach to teaching spelling to Billy might be worth the effort: Student looks at a word on a flash card while it is spelled aloud, then spells it back orally and writes it on paper. Billy responded well to the procedure and was able to spell all trial words correctly.

(4) Writing:

Billy writes in cursive. His handwriting is sometimes illegible, often characterized by a failure to close letters, poor spacing and alignment, and sloppy appearance. Frequent erasures and scribbles (as well as doodles) are often observed on Billy's written work.

(5) Classroom Behavior:

Billy's teacher kept a daily tally of the frequency of the following behaviors over a 10-day period:

Finished assignment	7/33
Fights on floor	3
Talking out without permission	(too hard to tabluate)
Swearing (in class)	6
Defying teacher	3

I observed Billy in the classroom on four different occasions and systematically recorded his behavior on an observation form. During seatwork assignments, Billy attended to the task approximately 15% of the time. Typical "off-task" behaviors included out of seat, daydreaming, talking to peers, and raising his hand for teacher's assistance. I also recorded what the consequences were for Billy's behaviors. He received a great deal of attention from the teacher for his off-task behaviors (stern looks, commands, etc.). When Billy was on-task, no consequences from teacher or peers were observed.

The teacher and I also completed a "learning style" inventory concerning conditions under which Billy functions most adequately. The questions and answers follow below:

1. When is the student most alert? At lunch time and first hour in the morning.

2. What is the student's attention span? Short and irregular bursts of concentrated effort.

3. What level of noise can the student tolerate? Sounds distract him; absolute quiet needed.

4. How does the student work best? Alone, with teacher close by.

5. What kinds of pressure (if any) does the student need? Not sure -- neither extreme has produced results.

6. What helps to motivate the student? Threats, also rewards or incentives -- short-lived, however.

7. Where does the student work best? Nowhere -- maybe group discussions.

8. On what types of assignments does the student thrive? On self-directed projects. "Thrive?" (Teacher's comment)

9. How does the student learn most easily? Multi-media packages, active response activities, multi-sensory approaches.

10. What type of structure suits the student most of the time? Strict -- although he rebels; have not tried jointly arranged agreements or contracts.

Finally, Billy completed a self-concept inventory for me ("How I Feel About Myself"). His responses are as follows:

1. How I feel about the way I look -
   Size - good
   Face - OK
   Hair - OK

2. How I feel about the way I behave -
   In class - OK
   In the yard - OK
   On the floor - bad

3. How I feel about the way people treat me -
   Teachers - bad
   Others my age - bad

4. How I feel about my work in school -
   Math - OK
   Science - OK
   Reading - bad
   Art - good
   Music - bad
   Spelling - bad
   Social Studies - OK
   Physical Education - OK

5. What I think is best about me - (left blank)

6. What I think is worst about me - Everything

Name: Billy Jones Age: 15-8

Parents: Mr. & Mrs. James Jones Birthdate: 10-9-69

Address: 11045 Lexington School: Correctional Facility

Referred by: Mrs. Miller, Teacher Grade: 9

Reasons for Referral: Disruptive classroom behavior and learning difficulties.

Background Information:

Billy is an average-sized, 15 year old, white male who appeared "bright looking" at the time of testing. He was referred for testing approximately sixteen weeks after arriving at the institution. Because of disruptive classroom behavior and his failure to achieve academically.

Previous testing was conducted when Billy was in the second grade. A similar reason for referral was given at that time by his second grade teacher. The school psychologist who assessed Billy concluded by stating: "Environmental handicap complicated by a developmental lag in visual-motor skills and social skills." A structured, individualized teaching approach was recommended by the examiner.

An analysis of Billy's cumulative record reveals that he has been a marginal student since he entered kindergarten. "Easily distracted," "wants to talk all the time," "nobody (peers) likes him," and "demands constant attention," are some of the comments by his teachers most frequently appearing in the file.

Health History and Medical Findings:

The mother reported that pregnancy and delivery were normal. Development history was reportedly normal, with first words before one year of age; talking in simple sentences and phrases from 11 to 18 months; sitting alone at four months; crawling at 7 and 8 months; and walking alone at 13 months.

The findings of a recent medical examination by the family's general practitioner were within normal limits, with no allergies or other abnormalities reported. Visual and auditory acuity were also within the normal range.

Family Social History:

Billy lives with his mother, father, and two younger brothers in a small, four-room house close to the factory where Mr. Jones is employed as a semi-skilled worker.

Family life appears to be unstable. The family home, although small, is well-kept and relatively attractive. Family outings center around church activities and an occasional evening out for dinner in a chain restaurant or a drive-in movie. The mother reports that television is the family's primary means of entertainment: "It's going constantly from the time the kids get up to when my husband finally comes to bed."

The mother appears to be the dominant force in the family as far as ntrolling the behavior of her sons is concerned. She reports that her imary methods of control are scolding, taking away privileges, and whippings th a strap. When these methods fail to produce changes, she calls on her sband who she reports, "really gets after them."

When Billy was younger he liked to play baseball, football, or any other ort if he could find someone to play with. Although he was always there en teams were chosen, he was usually selected last or not at all. When this ppened he would stay around to watch the game. Sometimes Billy would ride s bicycle to the shopping area and look in store windows or go to the park d look through the comic books he always carried with him. Occasionally, . would take him a long time to get home because he would lose his way. illy's mother reports that more recently he just hung out by himself and :arted getting into fights.

The mother states that Billy's behavior at home varies with the mood he is ; although she estimates that he is in a "decent mood most of the time." en Billy is in trouble, it is typically a result of a dispute over a posses- ion with his twelveyearold brother or an argument with teenagers in the eighborhood over the rules of a game. When such problems arise, the mother tates that Billy has a "wild" temper tantrum in which he screams, hits or icks, and curses uncontrollably. These tantrums which have been occuring on he average of two or three times per month according to the mother, apparently reatly upset both the mother and the father, and they have tried "just about verything" to deal with Billy's tantrums -- from comforting him to whipping im. Nothing, so far, has worked, according to the parents, and they expressed onsiderable concern over this problem.

In summary, although the parents believe that Billy is essentially a good kid," they finally recognize and are concerned about his learning and ehavior problems in school. They are willing to be helpful to the correction- l school in its efforts to deal with Billy.

sychological Evaluation:

The following sources of information were employed by the school sychologist in his evaluation of Billy's current intellectual, academic, and ocial/emotional functioning. Wechsler Intelligence Scale for Children -Revised

Bender-Visual-Motor Gestalt
Draw-A-Person Test
Wepman Auditory Discrimination Test
Peabody Individual Achievement Test

Testing with Wechsler Intelligence Scale for Children - Revised eveals that Billy is currently functioning within the average range of intelligence, obtaining a Full Scale IQ of 93. Although the test profile indicates that Billy evidenced a moderate degree of between subtest variabil- ity, there was a great amount of intertest scatter; i.e., on the Information, Comprehension, and Vocabulary subtests, there was a marked tendency for Billy o fail the easy questions and pass the more difficult questions. It should lso be noted that test behavior as well as significantly lowered performance n tasks requiring concentration tend to indicate that Billy's failure to

achieve academically may be due to interference by emotional factors such as anxiety or intrusive thoughts.

Billy completed the Bender-Visual-Motor Gestalt Test within normal time limits. Design errors were in the form of perseveration, distortion of shape, rotations, and integration. The Bender Mental Age is somewhat lower than the mental age obtained from the WISC-R. The visual-motor disturbances revealed by this test may be attributed in large measure to the often chaotic and impulsive manner in which Billy approached these tasks. For example, all of his drawings were characterized by heavy, black, and forced pencil lines and were executed without the usual control factors of accuracy, structure, order and precision. However, the presence of rotations in his drawings should not rule out the possibility of organic involvement.

The drawing Billy made of himself (Draw-A-Person) was only 1-1/2 inches high with no facial features, except the ears, and only one hand. No other distinctive body parts were included. One very interesting aspect of this test is that, instead of the heavy, black lines of the Bender Test, Billy's drawing was characterized by very light pencil lines and a generally very weak or "empty" picture. This kind of finding, normally, is very typical of the withdrawn or anxious student.

Administration of the Wepman Auditory Discrimination Test revealed nine errors, suggesting difficulty with both beginning and ending sounds of words.

On the Peabody Individual Achievement Test, Billy achieved grade level scores of 2.8 in Mathematics, 1.8 in Reading Recognition, 2.0 in Reading Comprehension, 2.4 in Spelling, and 3.4 in General Information. Low scores in reading can be attributed to difficulties with recognizing the sounds of initial and final consonants, long vowels (more than short vowels), consonant blends and digraphs, diphthongs, and syllabication rules. His spelling score was marked by difficulties in recognizing the visual forms of consonants and blends, and b-d confusion. In mathematics, weaknesses were revealed in the areas of basic computation facts, place value, missing elements, geometric forms, and time concepts.

Impression and Summary

Billy is an adolescent who is currently functioning within the average range of intelligence yet is experiencing significant difficulties in academic and social/emotional areas. Billy has a great deal of difficulty with tasks requiring concentration and attention. Competing impulses and emotions may interfere with his ability to attend and respond; often these underlying aggressive and impulsive feelings are manifested in work which, by its appearance, reflects these emotions. In addition, Billy's test behavior and reports from current and past teachers indicate that he is unable to tolerate failure experiences or delay of gratification of his needs, the result often being temper tantrums, immature bouts of pouting, or hostile and aggressive acts directed towards persons (adults and peers) or things.

Although much of the evidence generated by this evaluation is strongly indicative of an underlying emotional disturbance which has

manifested itself in an inability to learn despite adequate intellectual capabilities and an inability to display appropriate adaptive behaviors in social situations, the fact that Billy's tests revealed significant weaknesses in several perceptual or process functioning areas should not be dismissed. Nor should the possibility of organic involvement be disregarded. Low scores on the Wepman and Bender, as well as the significant discrepancy between actual achievement and expected achievement underline the very real possibility of some type of learning disability.

WECHSLER INTELLIGENCE SCALE FOR CHILDREN

Verbal		Performance	
Information	9	Picture Completion	10
Similarities	9	Picture Arrangement	8
Comprehension	10	Block Design	5
Arithmetic	5	Object Assembly	8
Vocabulary	9	Coding	4
Digit Span	3		

Verbal IQ = 96 Performance IQ = 89 Full Scale IQ = 93

BENDER VISUAL-MOTOR GESTALT

Number of Errors: 6
Perceptual Age: 20-to-7.5
Types of Errors: Perseveration, Distortion, Rotation (90-180), Integration.

PEABODY INDIVIDUAL ACHIEVEMENT TEST

Subtest	Grade Equivalent
Mathematics	2.8
Reading Recognition	1.8
Reading Comprehension	2.0
Spelling	2.4
General Information	3.4

Bibliography

The majority of the information for Handout 5 was taken from the following source:

Developing IEP's: A Resource Manual for Teachers. By Daniel P. Morgan, Utah State University, Department of Special Education, Logan, Utah. This material has been copyrighted by Dr. Morgan and all rights are reserved. Therefore, any reproduction of the information contained in Handout 5 is prohibited.

Additional Bibliography

The Individual Education Program Workshop, Workshop Leaders Handbook. Department of Public Instruction, Division of Exceptional Children, The State of North Carolina.

Educational and Psychological Evaluation for Billy Jones. Based upon an unpublished manuscript written by Dr. Daniel P. Morgan, Logan, Utah, 1977.

The IEP: What is it and how to do it. Unpublished manuscript by Dr. Daniel Morgan, Logan, Utah, 1977.

TRAINING EVALUATION:

C/SET MODULE: _____ DATE: _____

TRAINER: _____

Please answer the following questions as honestly as you can. Your responses will be used for the following purposes:

1. To assist trainers in evaluating training effectiveness.
2. To assist in planning future training sessions.
3. To assist in revising C/SET training modules.

General Questions (Check One)

1. Was your attendance at the session(s):

   ____ a. by your own initiative to gain information on the topical areas?

   ____ b. by your own initiative as respite from the classroom?

   ____ c. a requirement you felt good about?

   ____ d. a requirement you would rather not have had?

   Comment (Optional): _____

2. Training session(s) were:

   ____ a. held at a convenient time and day of the week.

   ____ b. held at a convenient time but not a convenient day of the week.

   ____ c. held at a poor time but on an appropriate day of the week.

   ____ d. neither convenient as to time or day of the week.

   Comment (Optional) _____

   Suggestions for better time and/or day (optional): _____

3. How appropriate was the length of the training session(s)?

___ much too long
___ somewhat long
___ just right
___ somewhat short
___ much too short

Comment (Optional): _____

_____

Specific Questions (Check One)

1. What is your overall reaction to the information presented in the session(s):

___ I see little or no application
___ I might apply it, but first I need more information
___ I might apply it, but first I need more in-situation feedback and support
___ I will apply it; it could result in an increased effectiveness
___ I have applied it and have found it useful
___ I have applied it and have found it to be ineffective

Comment (Optional): _____

_____

2. The information presented was:

___ new and exciting
___ the same old stuff with a different bend
___ nothing new

Comment (Optional): _____

_____

3. The presentor was:

___ knowledgeable and interesting
___ knowledgeable yet boring
___ unsure about the content, yet interesting
___ unsure about the content and boring

Comment: _____

_____

4. Media used in the session(s) was:

___ very effective
___ adequate
___ poor

Comment: _____
_____

Please send completed evaluations to:

C. Michael Nelson, Ed.D.
Department of Special Education
University of Kentucky
Lexington, KY 40506

5. What was the most important learning that resulted from the session(s)?

6. What was disappointing about the session(s)? What did you need or expect to learn that you didn't?

7. What will you do differently in your classes as a result of the training session(s)?

8. Other comments or suggestions: